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IN THE SUPERIOR COURT OF THE STATE OF CALIFORNIA

IN AND FOR THE COUNTY OF SAN DIEGO

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DEVIN DANIELS, BRYCE CLEMENTS, DAIMON FULLERTON; and NICOLE MORROW, on Behalf of Themselves and All Those Similarly Situated)

Plaintiffs,) NO. 719446

v.) DEPOSITION OF

PHILIP MORRIS COMPANIES, INC., et al.,) DAIMON FULLERTON

Defendants.)

- - - - - - - - - - - - - - - - - -

TAKEN ON: FRIDAY, SEPTEMBER 3, 1999

TAKEN AT: 750 B Street, Suite 2100
SAN DIEGO, California

REPORTED BY: FLORINDA ST. CYR
CSR No. 10180, RPR

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(NOT PRESENT)

INDEX

WITNESS	EXAMINED BY	PAGE
DAIMON FULLERTON	MR. DI SAIA	5

EXHIBITS
(NONE)

SAN DIEGO, CALIFORNIA, FRIDAY, SEPTEMBER 3, 1999;
8:45 A.M.

DAIMON FULLERTON,
BEING FIRST DULY SWORN, TESTIFIED AS FOLLOWS:

EXAMINATION

BY MR. Di SAIA:

Q. Could you please states and spell your name for the record.

A. Daimon L. Fullerton. D-a-i-m-o-n, F-u-l-l-e-r-t-o-n.

Q. Can I call you Daimon?

A. Yes.

Q. Have you ever had your deposition taken before?

A. No, I have not.

Q. I'm sure you have spoken to Mr. Blumenthal about what this involves. Let me give you ground rules. As you heard beforehand, the court reporter, who is sitting to my right here, is taking down everything that is said in the room. So it's easier for her if we make a clear record for her, so I'm advising you, let's try not to talk over each other. Okay?

A. Uh-huh.

Q. That's my next rule: It's really easy in conversation, because we all do it, to nod or shake

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your head or say "uh-huh" or "huh-uh," but the court reporter can't actually type down nods of the head. It makes it really hard to know what's going on. So if it's a yes-or-no question, you've got to answer "yes" or "no," so that it gets on the record.

Do you understand that?

A. Yes, I do.

Q. Okay. And again, "huh-uhs" or "uh-huhs," if you have not seen them written, they look identical. So if you can say "yes" as opposed to you "uh-huh" or "huh-uh" that would help as well.

A. No problem.

Q. At times during the deposition, your attorney may object to questions that I ask. It's perfectly acceptable that he does that. He may instruct you not to answer a question. But to the extent that, if you don't understand a question, please let me know yourself. I don't want to ask you a question you don't understand. If you don't understand it for any reason, let me know that; I'll be happy to rephrase it. Okay?

A. Okay. Understood.

Q. And try to speak up a little bit if you can. You're a little soft spoken. She might miss something if you mumble.

A. Okay.

Q. If you want to take a break, talk to your lawyer, get a drink, go to the bathroom, just let me

A. Yep, yes.

Q. I know. Trust me. You'll do it again.

What is your residence address when you're at school?

A. [DELETED]

Q. [DELETED]

A.

Q. And when you live in SAN DIEGO, this Shoreline address -- that's your mom's address you said?

A. Yes.

Q. How long has your mom lived there?

A. A little over a year.

Q. Have you always lived with your mom when you're in SAN DIEGO?

A. Yes.

Q. Where had she lived before the Shoreline address?

A. I don't remember the address, but still in SAN DIEGO.

Q. Let's do it that way: How long have you lived in SAN DIEGO?

A. Since I've been about nine years old.

Q. Whatever address, it's always been in SAN DIEGO?

A. Yes.

Q. Before you were nine, where did you live?

A. San Francisco.

know.

A. No problem.

Q. What is your age, please, presently?

A. 21.

Q. What's your birthday?

A. January 12, 1978.

Q. What's your current residence address?

A. [DELETED]

Q. [DELETED]

A. [DELETED]

(At this point, JEFFREY LENDRUM, ESQ. entered the deposition proceedings.)

Q. Is that your parent's house?

A. Yes. My mother's house.

Q. And you live there presently?

A. Yeah, for the -- for -- when I'm home, yes.

Q. For the summer?

A. Uh-huh.

Q. "Yes"?

A. Yes.

Q. And you're going to school presently?

A. Yes.

Q. Where do you go to school?

A. University of Arizona.

Q. And you've been going there since you graduated high school?

Q. Oh, where in San Francisco?

A. Foster City.

Q. I used to live in Berkeley. Were you born in Foster City?

A. I was born in Los Altos.

Q. Did you live in the Bay Area between the ages of one and nine?

A. Yes.

Q. Have you lived out of California, other than Arizona?

A. Just Tucson. Besides California.

Q. Before coming here today, did you meet with anybody to prepare for your deposition?

A. No.

Q. Did you meet with your attorney?

A. Not besides Norm. Yeah.

Q. Was that just today, or was it before today?

A. It was last night.

Q. Last night.

A. Before today.

Q. That counts. Was that the first time you met with your attorney?

A. No. Two times prior to that.

Q. And roughly when were those times?

A. Back in -- a few years back, '97, and then once a few months ago, after the second complaint was to be filed.

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Q. Say around June time?
A. May.
Q. The first time you met, roughly back in 1997, did you look at any documents at that time?
A. There was a phone conversation, actually.
Q. With your attorney?
A. Yeah, with someone from his office.
Q. Do you recall the name of that person?
A. I don't.
Q. Following that conversation, did you receive any documentation at all, between that first time in '97 and the second time in May of '99?
A. Yes.
Q. What did you get?
A. Letter asking me if I was interested in acting in this, and that's about it. I don't remember anything else other than that, except a packet of advertisements and a brief description of what it was about.
Q. Okay. When did you get that packet?
A. That was just – just prior to the meeting this summer, in May, I received it.
Q. And that included some advertisements?
A. Just a couple of pictures that followed up written documents and things like that.
Q. Let's break it down. Just before the meeting you had in May of this year, you had a package of materials?

A. Uh-huh.
Q. And it had some advertisements in it; yes?
A. Yes.
Q. What else was in it?
A. Beyond what the writing and pictures were?
Q. Well, the pictures were advertisements for cigarettes, I imagine; correct?
A. Yes.
Q. Beyond the advertisements themselves, what else was in the package, if anything?
A. Nothing. All I can remember is my name, Mr. Clements and Mrs. Daniels on the front. Besides that, I didn't go over anything in depth.
Q. So it was addressed to you and to Ms. Daniels and Mr. Clements?
A. Yes.
Q. Was there a copy of any version of the complaint that's been filed in this case in that package too?
A. Yes.
Q. Okay. Did you get that also around May of '99?
A. Somewhere besides there.
Q. When you received it, did you look at it?
A. Briefly, just looked at it, yes.
Q. Ten minutes? Longer?
A. Less.
Q. Just leafed through it?

A. Uh-huh, yes.
Q. Told you.
Have you looked at that material since that time?
A. Yes.
Q. When?
A. Last night.
Q. After you received it, looked at it for less than ten minutes and before last night, did you look at it at all?
A. No.
Q. How long did you spend looking at it last night?
A. About an hour.
Q. Anything in particular?
A. Just reading through what it had to say.
Q. The complaint?
A. Yes.
Q. Did you read through anything else besides the complaint?
A. No.
Q. Was that the second amended complaint? Do you know?
A. Yes, I think so.
Q. Was there anything, when you were reading through the complaint, that struck you as inaccurate or untrue?
A. I couldn't say that I saw anything that

struck me as untrue.
Q. Anything else you looked at before the deposition today concerning this case?
A. No, that's about it.
Q. Okay. Fair enough. Now, the conversation you had with someone from Norm's office in 1997, was that the first you heard of this lawsuit?
A. Prior to being talked about it with Bryce and – yes, that was the first I heard of it.
Q. Before that conversation took place, you spoke about it with Bryce Clements?
A. Bryce had talked to me about the idea, yes.
Q. Okay. And do you recall how much before that conversation in 1997 your conversation with Mr. Clements took place?
A. I couldn't tell you how long it was before that, no.
Q. A matter of days? Weeks?
A. Weeks maybe.
Q. Was he the first person that approached you concerning this lawsuit?
A. Yes.
Q. What did he say?
A. He said that he was pissed off and believed that something needed to be done and further went into his ideas of how the advertisements needed to be stopped, he believed, in some way. It completely affected his attitudes about smoking, and he believed

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I was in the same boat as him, and I agreed.
Q. So when you say "he was pissed off," he was pissed off about the advertisements?
A. Correct.
Q. Was he pissed off about anything else, on that occasion?
A. I couldn't tell you.
Q. He said he wanted to file a lawsuit about it?
A. He said he had the idea of that, and basically something just needed to be done. He wanted to do something about it.
Q. Do you know why he approached you?
A. He was a friend. He knew I smoked and probably knew I would give my honest opinion about what he was speaking about.
Q. How long had you been friends with Bryce?
A. Nine years.
Q. At that time, or since -- nine years today?
A. Now.
Q. Had you ever talked about smoking with Bryce before that occasion?
A. I couldn't say we talked about it, besides maybe asking one another for a cigarette.
Q. I guess that counts. Apart from that, you never discussed smoking in general, that you can remember?
A. No. As just the topic of conversation, may

have come up from time to time, but --
Q. Did you go to school together at La Jolla High?
A. Yes.
Q. In the same class?
A. Yes.
Q. And before La Jolla High, where did you go to school?
A. Muirlands Middle School.
Q. Did you graduate from La Jolla?
A. Yes.
Q. And did you graduate from Muirlands Middle School?
A. Yes.
Q. How about before middle school?
A. Torrey Pines Middle School.
Q. And you lived a few years, in elementary school, in SAN DIEGO after moving from the Bay Area?
A. Yes.
Q. Do you recall what grade you were in when you moved from the Bay Area?
A. Second.
Q. Okay. Now I'm going to go through, to some extent, your smoking history. First of all, do you presently smoke?
A. Yes.
Q. Now, I know this is a difficult question, and certainly I have trouble remembering what I had

for lunch last week, but do you remember the first time you smoked?
A. Yes.
Q. Okay. Could you describe for me the circumstances around that first time you ever smoked?
A. What do you mean by "circumstances"?
Q. How old were you?
A. 16.
Q. Where were you?
A. At home, in my backyard.
Q. Were you with someone else?
A. No, I was by myself.
Q. Do you recall what time of year or month it was?
A. No, I don't.
Q. I imagine you had a cigarette or cigarettes with you?
A. Yes.
Q. Okay. Where did you get those?
A. 7-11.
Q. You had purchased them yourself?
A. Yes.
Q. What kind of cigarettes were they?
A. Marlboro Light.
Q. Was the 7-11 located in SAN DIEGO?
A. Yes.
Q. Do you recall where it was exactly?
Streets?

A. La Jolla Boulevard. I don't remember the cross street. Maybe West Born.
Q. Do you know if it's still there?
A. Yeah, it is.
Q. Okay. How long before you were in your backyard alone on this occasion had you purchased the cigarettes?
A. The same day.
Q. Did you buy one pack?
A. Yeah.
Q. Were you by yourself when you bought them?
A. Yes.
Q. Did that attendant ask you for your identification when you purchased them?
A. No.
Q. Asked you how old you were?
A. No.
Q. You bought the Marlboro Lights because you wanted to try smoking?
A. Yes, as well as just to have one.
Q. Why have them?
A. It seemed that I wanted to smoke but, at the same time, wasn't able to actually go through the process of smoking regularly. I just had the cigarettes on me. It was kind of a self fulfillment. I felt that having them made me a smoker.
Q. Had you ever bought cigarettes before that occasion for that feeling?

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A. No, not besides candy cigarettes when I was smaller.
Q. Just normal ones. Had you ever been given cigarettes before that occasion so you can have them to get that self fulfillment?
A. No. Again, not unless it was maybe an empty box or a candy cigarette and I was playing with them when I was younger.
Q. Before that occasion, you never possessed any cigarettes?
A. Not that I had bought or intended to inhale.
Q. But you had –
A. Had packs of empty cigarettes. My mom's cigarettes were around the house. I may have picked them up and fiddled with them.
Q. Had you ever kept any of those packs from your mother or empty packs that you were given or found, just again for that self fulfillment feeling? Carry them around with you?
A. Not except that, at one point, I tried to make her quit, and I would keep any pack that I found and throw it away, at one point or another.
(At this point, CRAIG GUSTAFSON, ESQ. entered the deposition proceedings.)
BY MR. Di SAIA:
Q. But on the same day you bought that pack, you first started trying to smoke?

A. I tried a cigarette out of that pack, yes.
Q. Now, at that time, did any of your friends smoke?
A. None of my close friends, that I can recall, on a regular basis at least. I had seen friends of mine smoke before, but no one that I thought was what I would term a smoker.
Q. But again, using your term as "smoker," you had seen some of these people, whom you've termed as "smokers," smoking –
A. Yes.
Q. – on occasion?
A. Yes.
Q. At parties?
A. Possibly, or just any type of social gathering, really.
Q. Had you been with them at social gatherings, before this occasion when you were 16, when they were smoking?
A. I wasn't with them – I don't know if I was with them when I went to that place, but while I was there, I socialized with them, yes.
Q. And they were smoking?
A. Yes.
Q. Do you recall what brands they smoked?
A. I couldn't tell you exactly. I know that I saw a lot of different kinds, but nothing in particular stands out besides Camel, Marlboro being

the most I saw.
Q. Marlboro Lights too?
A. Yes.
Q. Is there any brand you saw more commonly than any other?
A. I saw brands a lot more commonly in advertisements and stuff like that, or around, but –
Q. I'm talking about –
A. In certain places, I don't think – besides what I mentioned before, Marlboro and Camels sticking out in my head.
Q. Were they sticking out in your head because you saw them more commonly than any other brand, or for some reason you remember those two brands?
A. I couldn't tell you what it was. It could be a combination of the two.
Q. As you sit here today, can you remember any of the friends you saw smoking, before this occasion when you were 16, smoking Marlboros, or Marlboro Lights?
A. Yes, at those occasions.
Q. Now, when you went to the 7-11 and purchased this pack of Marlboro Lights, did you do it because you had seen other people smoking Marlboro Lights?
A. I think because Marlboro Lights was always what I saw when I went to the store, which made it easiest for me to identify with, I guess.

Q. At the counter?
A. Yes.
Q. But there were other brands at the counter as well; yes?
A. I'm sure there were.
Q. Marlboro Lights, again just stuck out in your head?
A. Seemed to have, yes, at the time.
Q. Can you remember, when you bought that pack, if any reason, any factor that was affecting you in buying that particular brand, was the fact that you had seen other people smoking them?
A. Plus the fact that I had seen it through advertisements and things of that nature all my whole life. It just seemed to stick out in my head. I had created solid images of what I believed at the time a cigarette smoker was supposed to smoke.
Q. Anyone prior to that time ever recommend to you any type of brand in particular, by taste or any other thing?
A. No, I don't think so, not unless it was, as you say "by taste." I might have seen "Great Taste" on the billboard. Not from a person's – no.
Q. Had you ever thought, at one of these parties or get-togethers before this occasion when you were 16, to ask a friend for a cigarette, to try it?
A. I thought about asking for one. I never

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had, prior to my smoking my first one, actually inhaled, so I thought about asking for one.
Q. Okay. Was there anything in particular that prompted you to go and buy this pack on this occasion, as opposed to asking for one at the party?
A. I couldn't tell you what the exact feeling was. I just know that I thought that buying the cigarettes and intending on smoking them would in some way, shape or form get me into a social class or make me feel more comfortable at some point or another. That's what I think I was seeking.
Q. So those are the two factors that you were considering when you bought that pack? You wanted to get into a social class and feel more comfortable?
A. I thought that would make me be put into a type of social class or gathering and feel more comfortable, because I would then take on benefits that I thought a smoker had, which was being able to inject myself into different social groups and feel more comfortable. I thought it would make me that.
Q. So you used cigarettes to socialize?
A. Yeah, I did. But to socialize in the fact that I just thought it was cool.
Q. All right. So you went to the 7-11. You bought the pack of cigarettes. You went home in the backyard alone. Were your patients home at the time?
A. No.
Q. Was anybody home?

A. No. I was by myself.
Q. And you tried the cigarette?
A. Yes.
Q. Did you have just that one on that day?
A. I think I tried another one later that day. I couldn't tell you for sure, but I know I tried more out of that pack.
Q. Just don't know if it was on that day?
A. No, I don't know if it was on that day.
Q. And at the first time you smoked that first cigarette, what did you think of smoking?
A. I just thought that the smell was different when you smoke it than when you smell it coming out of someone else's mouth. Otherwise, I thought that the smoke coming out of my mouth was somewhat cool.
Q. Did you cough?
A. I don't recall whether or not I coughed the entire time. I know I might have grunted, but I wasn't intending on sucking the whole thing down. Just getting that image to try for them, so that I would see what it was like if I wanted to try it later.
Q. Did you feel like you were practicing alone, so that, when you were later on in public and you might be smoking, you would be more comfortable smoking? Was that it?
A. I felt I was kind of imitating what I had seen or what I believed was presented to me through

ads and things like that that I had seen. Smokers smoked when they were alone or when they're with people. So at the time, I was practicing to fit that image when I wanted to socialize.
Q. And did you enjoy the taste of the cigarette that first time?
A. I can't say that I enjoyed the taste, no.
Q. Did you inhale that first cigarette?
A. I thought inhaling was just bringing it into your mouth and blowing it out, so --
Q. "No"?
A. The entire thing was probably why I didn't cough as much or remember coughing all that much.
Q. Can you recall how long it was that you -- how long it was from that first occasion until you started to inhale the cigarettes into your lungs?
A. I couldn't tell you the exact time. Maybe a couple more cigarettes, but not a matter of days or weeks.
Q. So less than a matter of days?
A. Yes.
Q. And you said you may have tried another cigarette later that day. In the upcoming week after that first cigarette, how many cigarettes did you try?
A. Maybe one or two a day.
Q. Always by yourself?
A. From what I can remember, yes, out of that

same pack that I had originally bought.
Q. And did you do it in the same circumstances? You made sure you were alone and sort of practiced?
A. I didn't make sure I was alone. I just made sure that my mom wasn't around.
Q. Was it always at home that you tried them?
A. Tried them maybe at the beach. Didn't matter where I tried them, I don't think, just as long as my mom wasn't there. I was most likely willing to give it another shot.
Q. You think you had about one or two a day during that week?
A. Probably until that pack of cigarettes was gone, about one to two, yeah.
Q. Did you tell anybody that you were trying these cigarettes during that week?
A. Yeah, I'm sure I did.
Q. Your friends?
A. Yeah, I probably talked about it. I couldn't recall any extensive conversations. Nothing seems to pop out. But I know that soon thereafter I attempted trying them with my friends.
Q. And these are the friends you knew who also smoked or tried cigarettes?
A. Yeah.
Q. I take it, from what you've been stating so far, that you hid the fact that you were smoking from

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your mother?
A. Yeah.
Q. You mentioned that she smoked. Did she smoke at the time that you tried cigarettes when you were 16?
A. Yeah. She continued to smoke since the first time I remember smoking.
Q. So your first memory is your mom is a smoker?
A. Not from my first memories. The first memories I have of her smoking weren't until later in my life, but --
Q. Do you know how long she's been smoking?
A. I don't know how long she's been smoking.
Q. But you remember that, at least when you were a little kid, she smoked then?
A. I don't remember things like that from when I was a little kid. I remember it from about the time we moved here. I don't know what "little kid" is. What do you mean by "little kid"? From the time we moved here.
Q. Okay. That's fine. That's little. Now, I also take it from your testimony -- maybe I'm misinterpreting -- you lived with your mother and not your father?
A. My father died when I was young. Nine.
Q. About the time you moved to SAN DIEGO?
A. Shortly thereafter.

Q. What did he die of?
A. Cancer.
Q. Do you know what kind?
A. I don't.
Q. Was he a smoker?
A. No, not to my knowledge.
Q. Did you ever hear from anyone that the cancer he suffered was in any way connected to cigarette smoke?
A. Say that again.
Q. Did you ever hear from anyone that the cancer he suffered was in any way caused by cigarette smoke?
A. No.
Q. And you also mentioned earlier that at one time you tried to get your mom to stop smoking. Do you recall how old you were at that time?
A. No, I do not.
Q. Do you know what grade you were in?
A. No, I do not.
Q. Let's break it down even more generally. Elementary school at the time?
A. Yes, most likely.
Q. Was it after you moved to SAN DIEGO?
A. Yes.
Q. So you were somewhere between second and sixth grade?
A. Yes.

Q. Now, why did you try to get your mom to stop smoking?
A. I just didn't like the smell.
Q. That was the only reason; you didn't like the smell?
A. The only reason that I can remember.
Q. And you hid her packs of cigarettes to try to get her to stop?
A. I hid her packs of cigarettes just because I didn't want them to be smoked around me. I don't know if I really had the intentions of making her stop or not.
Q. You just wanted to stop the smell?
A. Yeah.
Q. Whether it was your mom or anybody else smoking, you just didn't enjoy it?
A. I didn't enjoy the smoke.
Q. For what period of time did you do this, did you hide the cigarettes?
A. Very shortly. Less than a week.
Q. Now, at the time your father died, when you were at age nine, were you told then that he died of cancer?
A. I knew he had cancer. I wasn't told how he died. I just knew he was dead.
Q. And you understood, at least in basic terms, what cancer was?
A. I just knew it was a growth somewhere that,

in the end, killed him.
Q. Now, why did you hide the fact that you were smoking from your mom?
A. Simply because she probably would have been angry had she known that I was smoking.
Q. You knew when you were 16 that she'd be angry if she knew you were smoking?
A. Yeah. That's why I hid the fact that I was.
Q. Do you know why she would be angry?
A. I knew she would be angry if I was smoking. I just knew that was the fact.
Q. Had she ever spoken to you about smoking before then?
A. She told me not to do it.
Q. On many occasions?
A. There were probably numerous occasions she told me that it was bad for me.
Q. Do you recall which occasions? As far back as when you were in elementary school?
A. Yes.
Q. And she had those conversations with you before you started hiding her cigarettes on that one occasion for about a week?
A. I don't think she really had many conversations. It was just more of a "Don't smoke" type deal than any extended conversations up to that point.

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Q. Okay. Well, had she told you "Don't smoke" before you hid her cigarettes for that period of time?
A. Yes.
Q. All right. Did she -- do you think any factor influencing you to hide her cigarettes was the fact that she had told you not to smoke; so you figured she shouldn't smoke either?
A. No, because I didn't really care. I wasn't thinking about smoking back then, in elementary school. I was thinking of hiding the smell from me.
Q. And apart from telling you "Don't smoke," did she tell you anything else about smoking when you were in, let's say, elementary school?
A. She told me that it was unhealthy, obviously. And that's about the extent of it, I think.
Q. Did she tell you anything else about why it was unhealthy?
A. Just the fact that it was unhealthy was stressed, and that's about it, at least that I can remember.
Q. She made the same comments to you when you were later in middle school and in high school?
A. Yes.
Q. She told you it was unhealthy and told you not to smoke?
A. More so then.

Q. She told you more often?
A. Yeah, when I went into middle school and began high school, I think I heard it more often, or I just might remember it more.
Q. Did she go into more detail with you when you were older, in middle school or high school, about what was unhealthy about smoking?
A. I don't think she knew that much detail about what was unhealthy, except that there was a number of talks, and that's what she told me. Things of that nature, but nothing too in-depth.
Q. Did she tell you it caused cancer?
A. Yes.
Q. Did she tell you it could kill you?
A. Yeah.
Q. Did she tell you it was addictive?
A. I think she did say it was addictive, yeah. I would say that she may have mentioned that.
Q. As early as middle school?
A. Yeah, somewhere abouts there.
Q. What about other diseases? Did she ever talk about emphysema or anything else that is attributed to smoking?
A. Not that I can remember.
Q. Do you think that your mom is addicted to cigarettes?
A. Yes.
Q. Do you think she was when you were younger,

in middle school, high school?
A. Yes.
Q. I went off on that long tangent. When you bought that first pack of cigarettes, when you were 16, did you realize, when you were buying the pack of cigarettes, that it was illegal for a minor to buy cigarettes?
A. I don't know that I realized it, because I didn't care, so --
Q. Had you ever heard it before, that it was illegal for minors to buy cigarettes?
A. Yeah, I knew you had to be 18 to smoke or buy cigarettes.
Q. So you knew it was illegal to buy them; you knew it was illegal to have them?
A. Yeah, I knew it was illegal to buy them and -- I didn't know it was illegal to have them.
Q. You knew it was illegal for minors to smoke?
A. To smoke.
Q. And, in fact, it was illegal for that storekeeper in 7-11 to sell them to you?
A. Yes.
Q. But you didn't care, because you wanted to try it?
A. It wasn't that I didn't care -- I just didn't think about it enough to come to any realization that it was illegal for me to do it. I

just wanted to try it.
MR. BLUMENTHAL: Off the record.
(Discussion off the record.)
BY MR. Di SAIA:
Q. How long did it take you to finish that first pack that you bought of Marlboro Lights?
A. I don't recall.
Q. Well, did you smoke every day after you got it?
A. I'd say that, yeah, I probably tried one or two a day, like I said before. One or two a day. So I don't know how long it takes to do that. Maybe ten days.
Q. And for that entire pack, did you always smoke at home by yourself?
A. No. Like I said before, I tried it wherever I was, just as long as my mom wasn't there.
Q. Oh, but -- okay. You were at the beach as well.
A. Yeah.
Q. Did you go out with friends and smoke with them? I'm trying to get if you were out by yourself or if you smoked with other people too.
A. No. I think I said that I had tried to go with my friends that I knew who smoked. I didn't hide the fact from them.
Q. Was Bryce one of the people that you smoked with?

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A. Not that I can remember at the time.
Q. Did you know he smoked at the time?
A. I don't recall that I would have known whether he smoked, as I was doing, at that time.
Q. Did you also bum cigarettes from your friends when you were smoking with them?
A. I hadn't done so. That was my first cigarette.
Q. I'm saying after you started.
A. After I finished that pack?
Q. Yes.
A. Yes, I would say that, if someone had one and I knew they smoked, I would have had one with them or asked for one. That was a possibility, yeah.
Q. Did you buy more cigarettes when you wanted some?
A. It depended. I'd look at cigarettes, and if I bought them, it would just be because I didn't have them and they were there. I don't know if I really had a need for them. But I'd buy them more as an image of what I had seen, what I had been subjected to and shown what a smoker does, and that's to buy cigarettes and keep them with them. That's all I had seen.
Q. Okay. When that pack ran out, when you were finished with that first pack of cigarettes, did you go out right away and buy another pack, or did you look at them and buy some later on?

A. I couldn't tell you how long it was before I bought the next pack, but it wasn't right away. Might have been a day, maybe two days.
Q. Okay.
A. But I did buy another pack shortly thereafter.
Q. And did you buy Marlboro Lights again?
A. Yes.
Q. Now, let's just talk about when you were age 16 in general. I don't want to know every time you had a cigarette. You probably don't remember. In general, through the time until you reached the age of 17, how many cigarettes did you smoke in a week?
A. Less than a pack a week.
Q. Less than half a pack?
A. Less than a pack a week.
Q. I'm trying to get more defined.
A. More than a half a pack. Less than a pack. Still on that same wavelength of trying one to two a day, I think.
Q. So to present, you have about the same smoking habits, one to two cigarettes a day?
A. No. Completely different now.
Q. Okay. But through age 16, about one or two a day?
A. Yeah, from what I can remember. It wasn't extended use during that first year.

Q. And would days go by during this first period of time, again, talking about when you were 16 that you smoked?
A. Yes, I'm sure there were times that I didn't have them on me or times that I just didn't see things that would provoke me to smoke.
Q. Well, can you recall having gone, let's say, a full week without smoking at all at age 16?
A. I don't recall any particular week. It's sure possible. During that summer, I was at camp, so I don't think I smoked there.
Q. So it was before the summer of your 16th year that you first had that first cigarette?
A. 16th year?
Q. Your 16th year.
A. Okay.
Q. So it was --
A. It would be fall and summer, in between my being 16 and 17, was the summer that I went to camp. Is that what you mean?
Q. Yes.
A. Yes.
Q. So between January and June, or whenever you go to camp, the year that you turned 16, that you first tried that first cigarette, you think?
A. Yeah.
Q. Okay. Where did you go to camp?
A. I don't recall. Somewhere in Colorado or

some Northern California – I don't recall where it was, to be honest with you.
Q. It was a boarding camp?
A. No. A Christian youth fellowship-type deal.
Q. How long did that camp last?
A. A week. Maybe ten days at the longest.
Q. Was it in the woods? What type of environment was this camp?
A. Marlboro Country, if you will.
Q. Okay. The mountains?
A. Yeah.
Q. Okay.
A. Mountains, trees, kind of outdoor-type stuff.
Q. Did you actually camp at this camp in tents?
A. In cabins.
Q. You stayed in a cabin with other members of this youth fellowship for a week to ten days?
A. Correct.
Q. At the present time, did you smoke at all?
A. I don't believe I had any cigarettes when I was there, simply because you couldn't buy them. There was no store or anything that sold them. Had there been, I'm sure I probably would have.
Q. Did you bring any with you?
A. Not that I can recall, because I was

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probably, again, scared of getting caught by these people that I was in camp with. Basically, none of them smoked.
Q. Were there counselors or other adults that ran this thing?
A. Yes.
Q. Is that what they're called? Counselors? I don't know what the Christian youth fellowship has.
A. They were counselors. They were called by their first names, but "counselors" was the way I could describe them.
Q. What was the purpose for this camp? Why were you there?
A. To be close to one another. To have fun.
Q. Was there any type of counseling, education, provided while you were there?
A. Education towards Bible scriptures and things of that nature. Beyond that, making a fire with wood, stuff like that.
Q. Okay. Camping stuff?
A. Yeah.
Q. Was there any other occasion that you can recall, during the time you were 16 years of age, where you went a week or more without smoking? I'm just talking about specific recollections too. If you don't remember, you don't remember.
A. Nothing sticks out, so I couldn't say there was an actual week going by.

Q. So at this point you're having a half a pack to less than a full pack a week?
A. Yes.
Q. How long did that last?
A. I don't know the exact time amount, but probably for – until the start of that following year.
Q. School year?
A. The following school year I think I might have upped the usage a little bit, simply because I was used to it. I was seeing more and more of what I wanted to be, meaning every time I saw ads of people smoking, I know that it made me want to smoke or have a cigarette, because I wanted the feeling. Again, that fulfillment that I was being cool or I was smoking. I still don't think I had an addiction to the nicotine, and I definitely didn't realize that I did. What I was doing was pretty much for show at that point.
Q. Okay. So I'm just trying to get straight what you're saying here. You said you upped your usage a bit after that summer and when you started school, when you were still 16 years of age. Do I have the right school year?
A. Yeah.
Q. Okay. And it was for show. Do you think that's why you started smoking more when school started, because you were around more people your

age?
A. I think I started smoking more during that school year, because I wanted to be what I saw in advertisements and things like that and being around my peers, like I said, getting into that social group. I was a smoker. Smokers to me were cool. So that's why I upped the usage.
Q. Okay. So that's why it developed when school started, because you were around your peers, people your own age, groups that were smokers, and you wanted to socialize in those groups?
A. No. I just kind of – I wanted to, in one – I wanted to individualize myself as a smoker so that I could get into different groups. I don't think it was because my peers wanted me to smoke or anything. It was more me doing it on my own, if that's what you're asking.
Q. I'm using your term. You used peers. I imagine you meant people your own age?
A. Yes.
Q. Okay. And that's a reason why you think your cigarette usage might have gone up, because you were back and school and there were more people your age that you were around, people that were in groups that you wanted to socialize with? Is that what I'm hearing?
A. Not because more people were my age. It's just because I wanted to show to them that I was a

smoker, and that's what I thought they did, was simply carrying them around, smoke them.
Q. Because I'm from Los Angeles, I have no idea how big a school La Jolla is. How big is a class of people?
A. Somewhere around 30.
Q. 30 students?
A. Students.
Q. Like in the 11th grade, there's 30 students?
A. Oh, no. Per class you said.
Q. I mean grade class.
A. I don't know. 400.
Q. At least when I was in high school, which was substantially before you, there were cliques. There were groups that hung together. You had jocks and dweebs and cool people and metal heads and all sorts of others that had names. Is that how it was when you were at La Jolla High?
A. There are obviously subdivisions of friendships that clicked together, yes.
Q. Were there any particular groups that smoked that you wanted to socialize with?
A. I don't think I ever categorized a group of people as the smoking group. But I knew individuals that smoked, and from what I had seen, if I wanted to talk to a girl and she smoked, then I should probably be smoking to be able to keep my confidence up and

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look like the guy in the ads who is smoking and is able to talk to these women.
Q. So you felt that, if a woman smoked and you smoked, it would be easier for you to socialize with her?
A. I thought it would make me look and feel and give me the confidence that I saw in the ads of what I took to be what I wanted. Me and a woman to be able to talk -- a girl in that case.
Q. You can say woman. At that time, I'm sure that's what it was. During that school year, when you were 16 and past when you turned 17, did you have any estimation as to what your cigarette consumption was on a weekly basis?
A. Consumption?
Q. How many cigarettes did you smoke in a week?
A. I don't know. Still maybe a little over a pack a week at the beginning of that next school year. I couldn't tell you to any certain amount.
Q. So you think it went up?
A. Slightly.
Q. So by the end of that school year when you were 17, do you think you were up to slightly more than a pack a week?
A. Yes, as I said before, just a little bit more.
Q. Did you continue to smoke Marlboro Lights

during that period of time? I'm talking about from the time you started smoking when you were 16 up through the end of your -- would it be your junior year?
A. I don't know if I continued smoking Marlboro Lights or I continued buying them, simply because that was the cool brand, from what I thought, to buy, and that was the brand that was always sitting in front of me at the 7-11, or wherever I might have gone to buy a pack of cigarettes.
Q. Well, during that period of time -- again, we're talking about through the end of your junior year -- did you buy any other brand?
A. Most likely I did. I couldn't tell you what brand that was. But I know I tried Camels. I don't know that I bought anything other than maybe a pack of Camels.
Q. Any other type of brand you have any specific recollection of buying within this period of time?
A. Not of buying. I know I smoked some other brands. And I know that I definitely was seeing other brands, advertisements and things like that, towards me, but I don't remember actually having bought any of them. Maybe tried them because of what my interest was: Was it smooth? Does it taste better? But --
Q. People at parties would offer you

cigarettes, and you might have tried them?
A. I might have tried one or tried simply because they had one. I don't know whether I was interested in seeing what was better about theirs or why they thought theirs was better and why they would come up with their slogans and pictures of what the cigarette was that I wanted.
Q. But you --
A. Marlboro was fine.
Q. You mentioned taste was a factor to you too. You wanted to try a different taste of different cigarettes?
A. Not the different taste. Just the fulfillment of having a different cigarette, of trying different brands. I thought I was maybe taking on the role of what I had seen in the advertisements, such as the taste. I wanted the taste. It seemed like I was a connoisseur maybe. Parliaments are blue, bold, like -- for me that was what guys that were kind of -- the preppie guys smoked. I'd try that. That's what I saw. That's why I experimented with different types of cigarettes.
Q. Okay. During this period of time -- again, let's shoot for through the end of your junior year -- what types of cigarettes do you specifically recall trying, apart from Marlboros and Camels?
A. Parliament, again, like I said, Virginia

Slims, Benson & Hedges, Capris, Marlboro Menthol, medium, all those types, GPC, Winston. At this point, I can't recall any more. But I know I tried more than that. I just couldn't recall.
Q. Apart from Camels and Marlboro Lights, you can't recall any of the packs of these brands that you actually purchased yourself during this period of time?
A. Correct, yes.
Q. So these were all acquired from friends that were smoking them?
A. Friends or strangers. It didn't really matter who they were. I wasn't embarrassed to ask for one, so it could have been a friend. Could have been anyone that I got it off of.
Q. During this period of time -- again, through the end of your junior year -- you did buy cigarettes on your own as well, as opposed to trying them from friends and strangers?
A. Yes.
Q. And through this period of time, you continued to realize it was illegal to do that?
A. I never really -- like I said before, I had known that it was illegal. I didn't consider the consequences of my buying those cigarettes. So I don't think I realized that I was performing an illegal action every time I bought cigarettes. I just thought I was getting away with something so I

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could fulfill my perceived idea of smoking.
Q. So when I say -- you knew, but you didn't consider?
A. Right. I knew, since I was smaller, that it was illegal. But I didn't care. I didn't realize that I was committing an illegal act every time. I just thought that I was getting away with something.
Q. Did you notice a difference in the taste between the Marlboro Lights and, potentially, Camels that you were buying and these variety of other brands you tried when you were up to the age of 17 in your junior year?
A. No. I still don't think I could recognize the difference in taste had I been given different types of cigarettes. I simply associated with the pack that I was buying, the way the cigarette was made and what, in terms of my being subjected to the advertisements, that symbolized to me.
Q. What do you mean by the way the cigarette was made?
A. I mean the way it looks, the way it's shown on billboards and magazine advertisements, the way the box is packaged. What you have in that is what the images I was being shown. I bought -- the way it was made, the way it was wrapped and packaged, simply what that meant to me. Smoking a Marlboro, the way it's made is different. The Marlboro Lights are all white. It's different than smoking a Camel, where

identify the cigarette in somebody else's mouth -- did seeing that brand in somebody else's mouth have any impression or effect on you as to what your impression was of the person that was smoking it?
A. It may have made me think that they thought they were Joe Cool smoking a Camel, tough smoking a Marlboro. Everything had something that correlated with that cigarette to me. I was being given images by the advertisements and then turning around and placing those images from my mind in what people were smoking.
Q. So if you saw someone smoking a Camel, did you believe that person was cool?
A. Yeah, because I believed what I was seeing through the advertising. So I took it that, if they smoked Camels, they thought they were cool. I believed they were cool, because they were cool enough and confident enough to smoke a Camel.
Q. But you didn't taste any difference between any of these brands that you've listed out for us?
A. Besides menthol, I don't -- I still don't think I could taste a difference.
Q. You can with menthols?
A. Yes.
Q. Is there any reason why you smoked at that time Marlboro Lights, as opposed to full-flavored Marlboros?
A. Full-flavored or medium were more rugged.

the filter is brown. You feel different smoking it. I felt different smoking between those two.
Q. Based on the actual appearance of the cigarette itself?
A. Based on what I had seen from the advertisements of that cigarette. People can associate the brand with the cigarette I'm smoking. I could associate people with the brand and what that means to me. It was more of an identity conflict of smoking the cigarette than it was taste or anything else.
Q. Well, did you identify -- could you at that time in your life identify a cigarette by looking at it?
A. Not unless it was packaged and I had seen it on an advertisement or something.
Q. But seeing a cigarette in somebody else's mouth, you would know what brand it was by appearance?
A. Unless -- like I said, the Camel has the sandy filter. I knew it was Camels. I saw it in advertisements. I might recognize the name on the package. If I saw that in their mouth, I could know that was Camel. And the Marlboro was the skinny white one.
Q. And seeing that cigarette -- and you say you could identify it because you saw the filter or the diameter of the cigarette -- you were able to

My impression of them were more rugged. They were the harsher people that I had been subjected to, like Bob, or whoever the Marlboro name was, was the man that smoked the hard ones. And then the cooler guys, more sophisticated, smoked Marlboro Lights, because they weren't as rough and dirty as the full-flavored or medium Marlboros.
Q. But it had nothing to do with taste or anything you heard about the difference between light and not-light cigarettes?
A. Like I said, I couldn't tell the difference in the taste between them.
Q. During that period of time when you were purchasing your own cigarettes -- again, talking through the end of your junior year -- were you ever asked for identification when you bought them?
A. If I was asked for identification, I obviously didn't have it. I wasn't of age, so I would try somewhere else.
Q. Didn't have a fake I.D.?
A. No.
Q. Were you asked on a general basis for identification when you bought cigarettes?
A. More times than not I wasn't asked.
Q. Were you ever asked what your age was? If they didn't ask for your I.D., did someone say "Are you 18"?
A. I can't recall. If they asked for

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anything, it would be my I.D., more so than whether or not I was 18. I can't recall.
Q. Do you recall ever lying to a shopkeeper about your age, if they asked you, and saying "Yeah, I'm 18"?
A. I can't recall. I probably would have quit had they asked me. If any questions were brought up, I would usually move on and go somewhere else. That's what I remember doing, if they asked anything as to my idea, and I would try somewhere else. It's easier to get away with it if you don't have to talk.
Q. Even if they asked you your age, just by asking you, and didn't ask for your identification, you would give up right then and walk down the street?
A. I can't remember being asked for my age. I remember being asked for my I.D. more so than anything else.
Q. Ever at any point before you were 18?
A. Not that I remember. I.D. was what I was worried about. Not age.
Q. Through, again, the end of your junior year, was there anything, any occasion, any event, anything you did during which you tended to smoke more?
A. Yeah, there were times I tended to smoke more. Like I said, whenever I saw things that made me want to smoke, an advertisement, things of that

unless it was -- the less grownups around, the better.
Q. If there are more grown ups around you would smoke less, potentially?
A. Yes, simply because I didn't think a smoker, as I had seen, a smoker my age, would smoke around parents. It wasn't the cool thing to do. There are obviously consequences.
Q. You would be chastised for doing it potentially?
A. Putting it mildly. That's about the extent of it, though.
Q. Was there any other type of occasions where you or circumstances where you would smoke less?
A. I'd smoke less in the back seat of a car than the front seat, simply because it blows on you, the ashes, I'm talking.
Q. I guess that counts as an occasion. What about -- did you play sports in high school?
A. Yes, I did.
Q. What did you play?
A. Football, basketball. That's pretty much it. Lacrosse a little bit.
Q. The school teams or --
A. School teams.
Q. All those three?
A. I never kept up lacrosse. I wanted the time off.

nature, I'd smoke more. I don't know if there were certain events, besides things where Marlboro or something like that sponsored the event, that I would want to smoke more.
Q. I'm talking more like parties. You know, if you went to a party and other people were smoking, would you tend to smoke more than your general daily smoking habits?
A. For instance, that junior year I visited the University of Arizona to see what I thought about it, and Marlboro sponsored one of the fraternity parties and gave us packs of cigarettes. So yeah, that would make me smoke more, because I didn't have to pay for them.
Q. That's true. Okay.
A. Made me smoke more.
Q. Because they were free?
A. Yes.
Q. If you were at a party where you weren't getting free cigarettes, would you smoke more often if there were other people around you that were smoking?
A. Depends on the occasion, I think. Again, I could probably get free cigarettes there. I bummed them off of people. Mostly monetary, like being able to pay for them. If I didn't have to pay for them, I'd smoke more, I know that. But I don't know that one social gathering or another made me smoke more,

Q. Did you tend to smoke less often, on a daily basis again, when you were in sports as opposed to not?
A. Yes. Simply because I had the requirements to practice and stuff. But once I wasn't practicing, I don't think that it stopped me from smoking. Just the practice requirements and the fact that I was tired after practice. It might be a cool thing to do to relax after practice and have a cigarette. And that's what me and some of my friends would do, was kickback, relax, have a smoke after practice.
Q. So the fact you were actually at practice, the time limitations to some degree limited how much you smoked?
A. Yes, simply because I was at practice.
Q. But it wasn't that the smoking, in any way that you would tell, affected your performance while you were playing sports?
A. I couldn't tell, because I didn't really realize or look at the problems that might have caused.
Q. You just don't remember, as we sit here today? You can't recall any problems with your performance that you attribute to smoking?
A. I know that I had chronic coughing, shorter breath, but I didn't attribute that to my athletic performance. I felt I could still perform as an athlete as adequately as I did, whether or not I

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smoked, whether or not that's right or wrong. Now I know it was wrong, because I think I could have been probably more productive or whatever you want to say in athletics had I not been smoking.

Q. Okay. Well, now, through the point you turned 18 -- so we're now into your senior year -- did your cigarette smoking stay about the same? I think you said a little more than a pack a week.

A. It was pretty much consistent throughout high school. Once I turned 18, I looked towards different types of cigarette brands, simply because they might appeal to me more through advertising and things of that nature. I switched from Marlboro to Camel, because they were just cooler, fuller, the bigger, badder cigarette to me. What I had been -- what I had perceived through what I had seen in advertising and the type of people that --

Q. When did you switch to Camels?

A. It was about the summer right after my senior year.

Q. So at that point you were 18?

A. I was 18 by then.

Q. And before that point, the brand that you purchased when you went to the store was Marlboro Lights?

A. Yes, simply because the Marlboro Lights were sitting on the counter, and I could grab a pack so it looked like I was confident in putting them

girlfriend or someone. And they might have wanted Parliaments, because they thought Parliaments were what the girls smoked, the girl cigarettes, and I might have bought them for that reason. Other than that, Marlboros were what I stuck to. They were the easiest to get, and they were the brand that was cool to me, until I was about to leave for college, and I switched to Camels, and that became the cool brand, what I had seen. That's what I wanted to do.

Q. But if you went to a store -- this is before you were 18 -- and there was some other brand that you had never tried before sitting on the counter and you saw Marlboro Lights directly behind the attendant at the counter, would you ask for the Marlboro Lights, or would you not buy the cigarettes at all?

A. I didn't go to many stores besides that one, is what I'm saying. I didn't need the opportunity to go into different stores. I had that one. That's where the Marlboro Lights were. I picked them up and put them down, all the time, over and over. There's a few shops around there, so they had Marlboro Lights there. I'd buy Marlboro Lights. My intentions were to get Marlboro Lights. They were there. They were put right in front of me, easiest thing to get. The kind I knew and the kind that I wanted to be like at the time, the smoker I wanted to be.

down, whereas the Camels were up above and the cashier had to get them.

Q. Did you ever see in any store other brands other than Marlboro Lights sitting on the counter?

A. I could have. But the majority of the packs that I bought were in SAN DIEGO, close to home. And that 7-11, stores around there, were the ones that I frequented, and at those stores, the Marlboros are ready available at the very front. I could pick it up, put it down, have the confidence to not show an I.D. and throw the money down and get them. Once I was 18, I didn't care about asking, obviously, because I could show my I.D., and I'd -- I think that switched it somewhat.

Q. The fact you would show your I.D. was an influence on switching what brand you smoked?

A. Simply because the Marlboros were so easy. They were right there. I could pick up the pack right off the stand, put it down, give him the money, without much of a problem at all, if any.

Q. Before you were 18, did you ever go to the store with the intention of buying cigarettes when there was any other brand of cigarettes than Marlboro Lights sitting on the counter?

A. Yeah, I had bought Camels before.

Q. Other than Camels too.

A. I don't think I really had the intentions, unless I was buying them for someone else, my

Q. But after you turned 18 or at some point after you turned 18, you wanted to be a different type of smoker?

A. Yeah. The advertisements had somewhat shifted my beliefs about what the college student smoker was. And to me, the ads showed me that girls smoked Marlboro Lights. The cool guys smoked Camels. So I switched to the tougher, cooler Camel cigarette, once I could. No problem in me buying it now.

Q. That was solely based on the change in advertising that you saw?

A. Yeah. The college kid is in that advertisement. I felt that the cool college kid was a Camel smoker. The cool college girl was the Marlboro Lights smoker.

Q. And you recall there being a different type of advertising than you had seen before, or was it just you looked at those ads before?

A. I was going into college, so I had a different view of those ads. They had always put ideas into my head, but now I was going into a different venue in life, going to college, I saw that man in a Camel ad, the cool guy that smoked Camels, Camels is what I wanted to smoke. It wasn't so much the ads were different; it was what I was doing was different, and it appealed to me more at that time.

Q. Your impression at that time was that the advertisements for Marlboro Lights was that it was

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intended for a woman to smoke?
A. That was what I took from the pictures. I don't know what it means. It could mean something different to everyone, but the appeal for me was for Camels now, rather than Marlboro.
Q. You didn't want to smoke a cigarette that you perceived was a cigarette that women smoke?
A. It wasn't that I didn't want to. I still would smoke that. I just didn't want to buy them. I now would rather buy the Camels. I still would smoke either kind. But I felt that the Camels were the, obviously to me, the guy cigarette and what I wanted to buy, not smoke.
Q. After you turned 18, did you continue to smoke about a little more than a pack a week in general?
A. Once the summer after my senior year began, my usage stepped up.
Q. When you began college?
A. Yeah.
Q. Stepped up to what?
A. Half a pack a day. I mean, gradually over that summer, but ultimately when I arrived at school, the usage had stepped up to somewhere around a half a pack a day.
Q. You think this was due to the fact that you would buy them yourself?
A. That and the fact that all you see around

school back in Arizona was cigarette-smoking billboards, advertisements. That's all I was -- that's all I'd see. I thought everyone smoked.
Q. But you started stepping up during the summer before you went to school?
A. It started getting gradually bigger, simply because I was out of school and I was seeing more and more time on my hands -- seeing more and more ads. But the big increase in my half a pack -- what it led up to was being in school and seeing the abundance of ads. I thought everybody smoked.
Q. Since that time, has your cigarette smoking stayed about the same?
A. I smoke about a pack a day now.
Q. Has it been a gradual increase from when you started college?
A. I tried to quit during college maybe two or three times and wasn't able to, simply drawn back more and more. It's almost like the ads tease you that you're not smoking at that time, which I think they do. And over time I just couldn't quit. And yeah, my usage did go up a little bit.
Q. Just taking the general span -- we'll get into the periods when you quit later -- but generally looking from the start of your college life to present, has it been a gradual increase from half a pack a day to a pack a day?
A. I think it was a half a pack a day until I

quit. And once I was kept away from them for a while, once I started up again, it became more to almost a pack a day. And I have been at that point for a little over a year and a half probably.
Q. Do you enjoy smoking?
A. I don't know that I enjoy smoking. I don't enjoy what it does to me. It kind of pisses me off. I'm not happy that I got into it in the first place, or was kind of brought into it. But I enjoy having a cigarette after a meal, and it gives me some type of satisfaction. Probably the nicotine satisfaction. That's about it. I still don't like the smell of them.
Q. You mentioned the smell was different to you when you were smoking versus when somebody else was smoking.
A. Uh-huh.
Q. Do you dislike it both ways, when you're smoking and when someone else is smoking?
A. When someone else is smoking, I'd like to see them and still might make some type of judgment as to what person they are by the brand they smoke, as long as I don't smell the cigarette. I just don't like that in general. But when I'm smoking, it's my cigarette. It just tastes different than it does smelling it coming out of someone else's mouth, obviously.
Q. Do you presently enjoy the taste of the

cigarette?
A. I've never enjoyed the taste. Just enjoyed the satisfaction I got from having the cigarette.
Q. I think you mentioned relaxation. Does it relax you?
A. I don't know. Maybe. Besides I've heard that it's almost a natural -- I forget the word. Makes you go to the bathroom.
Q. Diuretic?
A. Whatever. Natural one of those. That might be the case as to why I enjoy having one after a meal. But beyond that, I wouldn't say that it really relaxes me, except that I have like a want and need for them, so it relaxes that want and need. At the same time still making -- satisfying me that I'm getting what I've looked at.
Q. If you're stressed about something else, not about the fact that you have or haven't had a cigarette for a while, would you feel the sense of satisfaction if you had a cigarette?
A. If I'm stressed about something else, I don't think that -- I don't think about cigarettes that much, unless at some point I get a headache during the day if I haven't had one long enough. So that could be a stress headache. So I'll have a cigarette if I start to feel that pain.
Q. What brand do you currently smoke?
A. Camels still. I'm still a cool Camel.

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Q. That's it? No other brands since you started when you were 18 years old?
A. That's the brand I buy. I'll smoke pretty much any cigarette just for that reason. I'll smoke maybe GPCs or things like that, because it's a different type of cigarette. Just what it's perceived as, like the thuggish type of cigarette. Might have one of those.
Q. So again, it would be the image you associate with having that brand of cigarette is why you might try a different brand if it's offered to you or if it's available?
A. Yeah. I might try it just because the image I had associated it with is different. But as for my preference, I buy Camels, but I really don't know the taste between the two or three that I might be more subject to trying.
Q. Apart from menthols. You can taste the difference there?
A. I can taste the difference there, but that's about it.
Q. When you buy cigarettes, is there any other brand that you buy with any frequency apart from Camels? I'm talking about in the last several years since you switched to Camels when you were 18.
A. If Camels are not available, I might experiment and try something like -- like I said, GPC was thuggish, thought of as the cheapest brand. And

from what I've seen and made of it, it is the cheapest, most ghetto brand. So I've gotten that before.
Q. But nothing on a regular basis?
A. If Camel is not available, usually I go for Marlboro. They're the next coolest in line, I guess, in my book.
Q. Marlboro, Marlboro Lights? Does it matter?
A. Doesn't matter now. Except that Marlboro is kind of -- Marlboro Lights are the girl cigarette, like I said. I don't mind which I'm smoking, but when I'm buying, it's whatever they give me. I'd rather have the mediums now.
Q. Has it always been that way? When you buy them as opposed to when you bummed one off of someone -- has it always been that way? What I mean by that, when you buy cigarettes as opposed to bum them off of someone else, is it the image that you associate with the cigarette that's the reason why you have that cigarette?
A. The reason I buy them is because the image that I want is what I'm going to buy. When I'm smoking, if I get it from someone else, I can kind of impersonate that image. But when I'm buying that brand of cigarettes, I buy Camels, because Camels is what I want to associate with, the cool Camel, the bigger cigarette, better cigarette, smooth flavor. You know, that's what I want when I buy them. I can

smoke any kind and not really taste a difference. But I can associate with the difference of images that I've been subjected to.
Q. But when you are borrowing them from somebody at a party or wherever else, a stranger, it doesn't matter to you what image you associate with that cigarette, even before you were 18; correct?
A. No. I said -- like I just said, I could take on that image. That's fine with me. But I didn't buy those cigarettes. So that's not the image that I associate myself with. But at the same time, I can't taste the difference, so the cigarette need and the tobacco and nicotine I get is the same. The image I might associate myself with by smoking a different cigarette is different.
Q. Okay. Virginia Slims, for example -- that's a woman's cigarette?
A. Woman's cigarette.
Q. And you've known that since you started smoking. The image is a woman's image; is that true?
A. Since I've started smoking, yes, I'd say that's a woman's cigarette.
Q. But you stated that back when you were 16, you tried Virginia Slims?
A. Yeah.
Q. So at the time that you borrowed that cigarette from somebody else, the image of it being a woman's cigarette didn't matter to you; you just

borrowed the cigarette?
A. It still matters. That's why I didn't buy that kind of cigarette. The taste just didn't matter. I had that, because I was addicted to it. I still wouldn't like smoking Virginia Slims in front of people, because it was a woman's cigarette. What I wanted to smoke was a Camel in front of people. The taste and the nicotine that I was getting was not different. The image is different, and my wanting to smoke that image was the case. I didn't want to have -- it's what was there if I didn't have my Camels.
Q. So you believed that every time you borrowed or bummed a cigarette from somebody that didn't meet that image -- let's use Virginia Slims and Capris as examples -- it was because of addiction?
A. I think it was because I wanted a cigarette. I could assume the different images in advertisements. You could take every advertisement and make it what you like. People read different things, obviously, out of them. But the Virginia Slims and the Capris, that's fine. I could smoke a woman's cigarette. I just didn't want people seeing me smoking women's cigarettes all the time, as long as it was an exception and I was still cool with Camels.
Q. Does your mom know you smoke today?

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A. Yes.
Q. When did she find out?
A. Probably before I left for college, she realized that I had smoked on occasion. I don't think she knew the extent to which my use went.
Q. Do you know if it was before you were 18 that she realized you were smoking?
A. She knew I had tried it. She probably had seen me once or twice, but she didn't know that I had been buying cigarettes and hiding them and doing things like that until I was probably 18.
Q. Can you recall an occasion before you were 18 when your mom actually caught you smoking?
A. No. Just asked me whether I had or not.
Q. She asked you about it before you were 18?
A. Uh-huh.
Q. What did you say?
A. I told her I had tried it to see what it was like and see what the fuss was all about and why I was wanting to so badly with – just from seeing what I thought was cool, what advertisements and things of that nature had showed me was cool. I told her that's why I tried it.
Q. Do you recall how old you were during that conversation?
A. I don't know. Right – 17. I have no idea. She asked me a number of times, and I said every time that I tried it because I wanted to see

what this fuss was about, why I believed the smoking was so cool so I tried it.
Q. Did you actually mention the advertisements to her when you had these conversations?
A. Well, I'd say, in reference to the advertisements, why is this so cool? Why do I think it's so cool? Why am I made to believe it's so cool, when at the same time I'm being told not to smoke? It was the conflict of messages that I was receiving from people at school, her, and then from advertisements and stuff.
Q. So you didn't necessarily talk about the advertisements themselves? You talked about the image that you had come to associate with smoking and the conflict between those images?
A. I talked to her about the images that I had perceived from those advertisements, so I was talking about the advertisements, because they were speaking to me. I didn't use the word "advertisements" when I talked to my mom, but that's directly what I was talking about. That's what gave me the image that smoking was cool, was those ads. The conflict of messages is "Why are they saying it's cool?" "Why do I want to smoke, when all I'm hearing from you and people at school, you know, things of that nature, that it's bad?" That's the conflict of message I explained to my mom when saying why I tried them.
Q. And how many conversations can you recall

having with your mom concerning smoking when she asked you as to whether or not you were trying cigarettes before you were 18?
A. I couldn't tell you how many times that happened.
Q. More than once?
A. Once or twice. Two times.
Q. And what did she say to you when you explained to her that you were getting these conflicting images?
A. She just said "Don't believe the hype," basically. "They're throwing a bunch of BS down your throat and making you believe one thing when, actually, you should be believing teachers, government," her.
Q. Did she reiterate what she said to you earlier that you mentioned in your deposition earlier, about the hazardous effects of smoking?
A. Yes. She said it's bad for you. "You should not be smoking." Yeah.
Q. She told you it could kill you?
A. Yes.
Q. And told you again that they were addictive?
A. Yes. She hadn't really mentioned much about addiction. She was scared that I would get addicted by trying or just experimepting with what I thought was cool.

Q. And did you believe your mother?
A. No, because why would I believe her when all I see is the absolute opposite? And it's much more positive and easy to agree with the ads I'm seeing than to agree with what my mom wants. I want to agree with the positive image the tobacco agencies and those advertisements have created for me, the cool things. I didn't want to agree with my mother and believe that she was right. I wanted to believe you guys, basically.
Q. So when she told you these things on these two occasions, you thought she was wrong?
A. I didn't think she was wrong. I just didn't think she was completely right. It just brought a conflict of message to me.
Q. Did you believe, when you had these conversations with your mom, that cigarettes could be harmful?
A. I knew she told me they could be harmful. I knew myself they could be harmful. I just didn't believe her that I could die from them. I wanted that positive image that had been built up in my head since I was a kid. And that positive image was that smoking is cool, fine for you. I mean, everywhere I looked that's what was being said.
Q. Setting aside the image, did you believe that cigarettes could kill?
A. I believed that there was a possibility

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that they could have harmful effects on you. I didn't believe they could kill me, because I didn't see them killing anyone. All I saw was good things about it.
Q. So you didn't think they could kill anybody?
A. I just didn't think they could kill me.
Q. Okay.
A. People weren't dying in advertisements.
Q. But you knew that people died and that it was associated with smoking?
A. Yeah.
Q. And you knew that people had said they were addicted to cigarettes at that point?
A. My mom wasn't telling me this. Are we talking about my mom, what I believed there?
Q. Anybody. You knew at the time you had these conversations with your mom that there were people who said they were addicted to cigarettes?
A. Yeah. But I didn't know to believe them. I didn't know what the deal was.
Q. At that point, did you believe your mom was addicted to cigarettes?
A. It didn't matter. It didn't cross my mind.
Q. Nor did it ever cross your mind that your mom was addicted to cigarettes?
A. Addiction wasn't the problem. It was whether or not I could do it. I knew she smoked.

up until probably sometime around college. I didn't want to believe anything else.
Q. I understand that. But I'm talking about when you were in college. I'm talking about when you were a freshman in college. You're talking about having these self-realization thoughts and thinking about the images and coalesced them in your head. I'm trying to figure out when the first time you did that was when you were a freshman in college?
A. I don't know when I did that. I know she's addicted to cigarettes. That's just never how I thought about it before. I knew it was a habit. Addiction wasn't the case. It wasn't the point.
MR. BLUMENTHAL: Let's take a break.
(Recess taken.)
BY MR. Di SALA:
Q. All right. When was it – I'm talking about what age you were – when you first remember hearing that cigarettes were harmful?
A. My first memory would be sometime in high school that I was told they were harmful, just by someone trying to get me to realize that they were harmful, and I didn't realize that then. Didn't realize that for a long time.
Q. Well, I know that some of the other people we've deposed so far in these cases in the last couple of weeks talk about health classes they took in middle school and high school in which smoking was

That was a habit to me. It wasn't an addiction.
Q. Okay. You said earlier that you believed your mom was addicted to cigarettes?
A. I do believe that.
Q. When did you first come to that realization?
A. I guess the first time I thought about it hard enough to overlook anything else, to look past what was being showed and other circumstances, such as that the advertisements – once I sat down and looked at what my mom was and her habits, I knew she was addicted, once I looked at that logically.
Q. When was that?
A. The last – since I started college. I never associated addiction with my mom's habit. It just wasn't that.
Q. Okay. Well, when you were 18 – you started college when you were 18 – do you recall coming to this realization when you were 18, sitting down and doing what you just said, looking at things, and saying to yourself, "My mom is addicted to cigarettes"?
A. I never really said that. I knew it was a habit. It just never was brought out. No one ever asked me, "Is your mom addicted to cigarettes?" I didn't have to think about it that much. The realization was just when I think about it, I know she's addicted. I had never had to think about that,

addressed. Do you recall taking a health class?
A. Yes, I do recall it.
Q. Did you have such a health class during middle school?
A. Not that I recall.
Q. And at the time you were in middle school, do you recall hearing or seeing or reading anything that indicated to you that cigarettes were harmful?
A. I don't remember ever being put into or seeing anti-cigarette stuff. I just have absolutely no recollection. The first time I remember being told that cigarettes were bad was in high school, in classes such as that.
Q. Okay.
A. And that it was just something I didn't believe. I just didn't believe them.
Q. We'll get to that. When was the first class you took in high school that addressed cigarette smoking?
A. I think it was my junior year. I think it was.
Q. And did you have more than one class through the course of high school that addressed cigarette smoking?
A. It was more like a meeting. It wasn't actually a class that I was getting credit for or anything like that. But I remember one.
Q. A meeting?

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A. Yes, a large meeting, kind of like a field trip almost.
Q. You think this was in your junior year?
A. I think it was in my junior year, the beginning of it, somewhere there.
Q. You went someplace; you said it was a field trip.
A. It wasn't at school. It was a group of kids from our school that were going to actually start like an anti-smoking club almost or a group on campus.
Q. Okay. How was this organized? Do you recall how it is you came --
A. One of our counselors asked us if we'd do it.
Q. A counselor at school?
A. Yes.
Q. Do you recall how many students participated in this field trip class?
A. I think it was only four from our school.
Q. Do you recall other schools being involved as well?
A. There were definitely other students as well. I don't know what that was because of. I don't remember much of it. But I know there were a lot of other students there my age, people my age. Whether or not they were students, I don't know.
Q. Who was the name of the counselor that

asked you to participate?
A. Beth Banky.
Q. Do you recall if Devin Daniels was also part of this same thing?
A. Yes.
Q. She was?
A. She was part of it.
Q. Who else? Who were the other two or three students that were involved?
A. Sharon Bracken was one of them, I believe. And Mike Burton was one of them. I think it was just the four of us.
Q. Were you all in the junior year, all in the same class?
A. Yes, all in the same class.
Q. And do you have any idea why Ms. Banky asked you to be part of this?
A. She liked me. I don't know. She just liked me. That's the extent of why she would ask me, I guess. I really don't know why she did.
Q. What did she ask you to do?
A. She didn't really ask me anything. She asked Sharon to ask me -- to say it was a good idea if Sharon would ask me, and Sharon asked me. Ms. Banky didn't say much about it. Like I said, she liked me. I'm still friends with her and stuff, so --
Q. What were you told by Sharon as to what it

would involve?
A. Getting out of class.
Q. So that was a "yes"? Huh? What did you do? Describe what this field trip involved?
A. All I remember is seeing slides of anti-smoking pamphlets, things like that. A class-room discussion of just meeting everyone. I don't remember much about it, to be honest, except they were trying to get us to ultimately put together a presentation that we could give to middle-school students in a non-smoking -- like a non-smoking rally.
Q. So you had a get-together or get-togethers before this rally took place in order to prepare a speech to be given, a presentation?
A. We didn't have to give a presentation or a speech. That's what this field trip wanted us to get back at, and we were supposed to keep going with this, and it never followed through.
Q. So if I understand you, the field trip was to educate you to be able to give classes to middle schools about smoking?
A. Correct.
Q. How often did, if at all, did you and the other students get together, before you went on this field trip, to talk about or work on this project?
A. I don't know that we ever really all got together and sat down, besides setting a date to go

on this trip. Other than that, I don't recall ever caring much about it or being up on what was going on about it, talking to them about it.
Q. Was it a single-day trip?
A. Yeah.
Q. What happened there, to the best you can recall?
A. Like I said, I don't remember. The most I could say, we talked to one another. And all the people there -- you introduced yourselves, said why you were there, I think. After that, it was just a bunch of pamphlets and slides.
Q. Were there also speakers that talked to you about the harmful effects --
A. There was like a class-room leader. I don't know that there was speakers. If there were, I don't recall them at all.
Q. Okay. But it was discussed or addressed, the harmful effects of smoking, at this field trip?
A. Yeah. I mean, I'm sure it was. It was an anti-smoking field trip.
Q. And they also talked about the various diseases associated with smoking?
A. I don't remember what happened there. I just know that I was in it. I cared, really, that I was out of class.
Q. And did you or anybody else in the group with you attempt to organize a program for middle

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schools after you finished that class, seminar?
A. I don't think so, no. I mean, it never got past the stage of a thought by one of them, I don't think. I never gave much thought to it. I never wanted to -- I never cared. I just didn't believe in what they were saying. I'd rather believe the image that I saw and wanted to believe, which was that it was cool and it was a positive image, so --
Q. Okay. We've talked about that. You also mentioned there were health classes that you took, part of your curriculum at school. Correct?
A. That's what I meant, the classes that I recalled that had mentioned anything about health and cigarettes. That's what I recall. I don't recall ever going over the bad causes of cigarettes in classes.
Q. Did you have a class that was called "Health" or associated with health issues?
A. Physical education, PE.
Q. Apart from PE?
A. Health. And driver's ed, I think, was one of the classes I took.
Q. You just can't remember if they addressed cigarette smoking at all?
A. I don't recall. I'm sure they did, but I just don't remember it. It was quite a while -- six years ago.
Q. In physical education, did they ever

address cigarette smoking?
A. I don't know why they would. I think it was more just a sports thing. Just go out there. And that was my -- my PE class was basketball and football classes. I didn't have PE if I didn't have a sport. They never brought that into practice.
Q. One of the other people talked about preparing reports about the cigarettes and their effects when they were out of PE for some medical reason or any other reason they could not attend physical education class. Did you ever do anything like that?
A. No. There was no class. It was my practice -- my practice was class. PE was practice.
Q. So you didn't participate in general physical education if you were involved in a sport? That what you would be doing?
A. Uh-huh.
Q. "Yes"?
A. Yes.
Q. Were you aware that those even took place? That there were people at school that were in physical education that couldn't participate so they prepared reports about the harmful effects of smoking?
A. I didn't know that that was part of the PE curriculum. I really had no idea that's how they got out of PE, but --

Q. Do you recall there ever being any presentation while you were in high school that involved guest speakers talking about the harmful effects of smoking?
A. Nothing pops out in my head. I mean, besides the fact that they wanted to put me into this anti-smoking group and be a part of that and be a speaker myself. I don't recall speeches at school or anything like that as to anti-smoking.
Q. Do you recall anybody ever coming to any of your classes who talked about having themselves developed cancer or some other disease as a result?
A. In driver's ed class, they might have had speakers that -- because she showed slides and pictures so as to try to scare us as to the harmful effects, but I don't recall if they had speakers or not, besides our teacher, obviously.
Q. What grade would that class have taken place?
A. Probably my freshman year.
Q. Okay. So before you tried smoking, you would have taken that class?
A. Yeah, before I would have started driving, so yeah.
Q. So you don't recall specifically if there were any guest speakers that talked about having gotten cancer or any other disease at that class?
A. We had a student in our class speak that

had cancer, but it wasn't an effect of smoking, I don't think.
Q. Did any of these classes we talked about, including this field trip, talk about addiction and cigarettes?
A. Yeah, I'm sure they did. I just -- to the extent they talked about it, I don't know. I don't recall, simply because I just didn't care. It wasn't what I wanted to hear. I would have rather heard the positive image, so that's probably why I didn't listen to any of it or remember it any of it now.
Q. Did any of the coaches ever talk to you about smoking?
A. Yeah. They didn't like the fact that they knew people on our team smoked.
Q. Do you know if any of your coaches knew you smoked?
A. Yeah. One of the coaches I was close to knew that I had an occasional cigarette.
Q. He talked to you about it?
A. Not talked to me about it. Just showed his not liking the fact that I did so.
Q. Did he discuss with you the harmful effects at all apart from this discussion?
A. No.
Q. No?
A. No, he didn't really talk about it. I just -- he didn't like the fact that he knew that I

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had tried it or was a smoker. He was a silent guy. Didn't say much about it.
Q. What about television? Did you ever see any shows or commercials or anything else that talked about harmful effects of smoking when you were in high school?
A. The anti-cigarette ad I could remember as the most prominent one in my head is where they all looked like the exorcist and worms fall out of their mouth and stuff.
Q. On TV?
A. Yes. It was on TV. An anti-smoking ad. But that's the only one I can really remember. I don't remember many besides that, not until recently.
Q. When you were younger, did you watch Saturday-morning cartoons?
A. Usually playing around, I'm sure I did, quite a few times.
Q. Do you recall, during any of the times you watched the cartoons on Saturday mornings, seeing any advertisements or shows or brief segments about cigarette smoking and its effects?
A. As in terms of its harmful effects?
Q. Yes.
A. I can't remember anti-cigarette commercials from that long ago. Probably would have scared me if they are the same ones they are today.
Q. Apart from advertisements -- I'm going to

talk about those, I promise you -- was there anything you saw, up to the point you were 18, or that you were told that led you to believe that cigarette smoking was good?
A. Everything I'd seen up to that point was cigarette smoking was good.
Q. Apart from advertisements.
A. The fact they're always on the counter. I mean, it's like they're the coolest thing to get. That's why they're up front. That's saying they're good to me.
Q. Anything else?
A. Simply the fact that the advertisements pound it over and over that it's good. I mean, there's no way around that. That's the biggest thing in my head is that.
Q. All right. Recount for me, if you can, the advertisements you specifically recall seeing before you were 18 about cigarettes.
A. Pro-cigarette ads?
Q. Any ads about cigarettes.
A. I don't know that I could decipher if I saw them before or after I was 18. But Camels, Winston, Parliament, Marlboro, Virginia Slims, Benson & Hedges. I mean, I'm sure there's a lot more I saw.
Q. And did any or all of the advertisements you saw concerning these different brands -- were they all visual ads, or were they also with text?

A. Some of them had text. Some of them didn't. But they all portrayed a message to you of a positive link between smoking and people. So to me they were all visual. And then the ones that had text were reinforced with words.
Q. Okay. I'm talking about, to the extent you can remember them, the advertisements you saw before you were 18. Can you recount for us what the text said.
A. Cool. That's the most prominent word, is "cool." "Mighty taste," maybe. "Smooth." "Marlboro Country." "Taste the difference," things of that nature.
Q. Do you recall, apart from Marlboro Country, which I think is kind of obvious, which of those different words you associate with which different brands?
A. "Smooth" I think was Camel. "Straight up" I think was Winston. Some type of women slogan for Virginia Slims, "What a lady needs"; "what a lady smokes." I can't remember exactly what Salem said, but it was something to a romantic effect, I think. Guy and a girl. I just always remember them hugging, and there was no cigarette in the ad. Just in the water. I can't remember what it said, but that one stands out as well.
Q. Is that generally what stands out in your head when you think about the advertisements you saw

before you were 18, the visual imagery of the ad itself?
A. Yeah, pretty much so. What the ad tells me without having to say anything is what I remember the most frequently. It's hard to remember the words that go along with it. It's much easier to remember an image and associate it with that cigarette or see it and what is that ad trying to portray to me, rather than what it says. What it says just backs up what you feel the ad is trying to portray.
Q. Now, when you had your field trip and any other education you might have received in your health and driver's ed course or any other courses that you took, did you believe anything you were being told about the harmful effects of cigarette smoking?
A. I didn't want to. I chose to believe otherwise. I chose to go the way that -- it was much better for me, the positive route was -- I would rather believe what I was seeing than what I was being told by my mom and teachers and anyone else.
Q. Okay. So it wasn't that you think your teachers or mother were lying to you. You chose to believe something else instead; is that what I'm gathering?
A. I could have thought they were lying to me, but it was just a fact of me wanting to believe otherwise, and I think in doing so, that I did. I

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believed that the cigarettes were glamorous, cool, everything else, like I said before. I just didn't want to believe them.
Q. Well, do you have any specific recollection, as you sit here today, of hearing the different things you heard and slide shows you saw, the things you recounted for us earlier, and saying to yourself or out loud, "That's untrue, that's a lie"?
A. And what I've been told –
Q. About the harmful effects of smoking.
A. Yeah, I guess. Everything was a lie to me.
Q. So you thought the slides you were seeing were a lie?
A. I thought what I was seeing was just not the truth. I didn't think that could happen to me, and I think I was being tricked into believing it was a lie, because I had never seen a person screwed up with yellow teeth on an advertisement. I believed everything there was peachy. And it was tricking me into believing that what I was being told was a lie.
Q. But in real life, apart from the ads, did you see people with yellow teeth who smoked?
A. On occasion I would, yeah. That wasn't who I associated with – I associated with the people on the billboards and in the magazines. I didn't care what the people were smoking with yellow teeth that looked appalling to me. I figured they might smoke

that actually came from a tobacco company – that in any way led you to doubt all these things you were hearing about the harmful effects of smoking?
A. Yeah. Every time they give me a free pack of cigarettes, they're telling me it's fine to smoke.
Q. I'm trying to keep you directed at my question here.
A. Okay.
Q. I'm not talking about ads. I'm not talking about anything that was done. I'm talking about things that were said, actually spoken to you, or things that were written down that you actually read that gave you reason to doubt that cigarettes were harmful.
A. Everything that I saw or that was written down in those advertisements, that is worth a thousand words. That tells me that it's all right. Every time I saw that.
Q. Apart from the ads.
A. What else would be written or shown to tell that it was all right, besides the advertisements from those companies? No one else told me that it was good, except for those ads. Every time I saw those.
MR. BLUMENTHAL: I would object. It lacks foundation as to any other communications he might have had with the tobacco companies, other than the ads and the promotional slotting and what he's talked

GPCs or something like that.
Q. Okay. Before you were 18, did you know anybody, apart from your father, who died of cancer?
A. The kid in my health class died of cancer. Beyond that, no one close to me other than celebrities. I don't know. I can't recall anything. Nothing pops to mind when you say, "Who's died of cancer," since then.
Q. But you were aware before you were 18 that cancer exists, certainly, because your father had that, and it could kill people; yes?
A. Yeah, but I didn't associate his cancer with smoking, because I knew he didn't smoke and that wasn't how he got the cancer. That was, to me, associated with smoking, because he didn't smoke and he died of cancer.
Q. So despite the fact you had been told by people that there was a connection between smoking and cancer – you knew that cancer, in general, could kill – you didn't choose to believe that smoking cigarettes could cause cancer and kill?
A. I was tricked into not believing it. I was believing what I wanted to believe, and that was that smoking wasn't going to do that to me. It was going to let me live friendly, freely, as the people on the billboards.
Q. Okay. Can you recall hearing anything – I'm talking about statements or printed materials

about. So objection is it lacks foundation.
BY MR. Di SAIA:
Q. Okay. Do you recall seeing anything at all, apart from advertisements, that you believe came from any tobacco company concerning smoking?
A. In the form of what?
Q. Anything. Any printed text, any written statement, any oral representation, anything you heard or saw.
A. So printed statements on advertisements that I saw?
Q. Apart from advertisements.
A. That's the only pro-smoking stuff there is, is the advertisements. And that's the print that always tells you that things are all right.
Q. That's basically what I'm trying to get at, then. Now, I'm going to show you what's been previously marked as Exhibit 1 in some of the other depositions, which is a list of the different surgeon general warnings over the course of the – since 1985, that have appeared on cigarette packages and advertisements. Have you seen these warnings before?
A. Yeah.
Q. Do you recall specifically seeing each of the four different warnings which I'll represent to you are on a rotating basis, different warnings put on different packages at different times?
A. Have I seen all of them? I think I've seen

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all of them, yeah.
Q. Do you recall seeing one or more of these warnings on the packages of cigarettes that you've purchased yourself since you were 16 years old?
A. I couldn't even tell you where the warning is placed on a pack of Camels. So no, I don't realize it every time I buy one. I think that these things are -- no one pays attention to them, because they're -- they're almost dumb.
Q. You don't pay attention to them?
A. "Quitting smoking now greatly reduces the serious risk to your health"? It didn't greatly -- seriously reduce your health before? They're dumb.
Q. That's what you take from that, being dumb?
A. "Quitting smoking now greatly reduces serious risk to your health." Before, if you quit smoking, it didn't reduce the serious risk to your health? That's what I take from that. It's almost mocking what they're trying to put on there. If you put on there that quitting smoking will help you live a hell of a lot longer, then people will listen to it. If you put on there that smoking will make you die --
Q. Smoking causes lung cancer, heart disease and emphysema?
A. I just don't associate with those.
Q. Are any of these warnings -- I realize the print --

point on cigarette advertisements or package of cigarettes -- did they have any effect on you at all?
A. No. Except to say that they're not taken seriously. They didn't affect me to try to stop smoking. And further than that, I'd have to say the mocking of them makes me think less of them.
Q. Do you know who the surgeon general is?
A. I have no idea.
Q. Do you know what his job is?
A. I would assume that it's --
Q. To be the general surgeon?
A. People to be in good health and looking out for the best interests of people.
Q. Okay. And do you believe that, in putting these different warnings on cigarette packages and advertisements, that the surgeon general is being untruthful?
A. Could you repeat that, please.
Q. Sure. Do you believe, in putting these different warnings on cigarette packages advertisements, that the surgeon general is being untruthful?
A. They're not being untruthful. The smoking does cause all of this, but what's untruthful is the mocking of these warnings. It makes people get the entire opposite idea and plays these into nothing. They don't mean a thing when you see things such as that.

A. It would if I was planning on having a baby. I wouldn't want my wife to smoke, simply because I know the problems it can cause. But "Cigarette smoke contains carbon monoxide" -- I never cared what that was.
Q. To present do you care what carbon monoxide is?
A. I care that I inhale it all the time and it's not good for me.
Q. Okay.
A. But I never recalled these warnings. I never recalled them when I started smoking. I haven't thought about them seriously since then until basically now. I just don't believe they're taken seriously. They're mocked by the companies.
Q. I'm talking about you personally. I'm not talking about anybody else. I'm trying to find out whether these had any effect on you at all.
A. Well, the mocking of them does have an effect on me because it makes me just think that they're thrown into the wind. And by mocking them, yeah, it has a direct effect on what I feel these are about. And when a cigarette company says "Men, hungry women" --
Q. Just these warnings.
A. Just these warnings.
Q. The ones I put in front of you today. Have these warnings that you have seen before at some

Q. Okay. Well, back when you were -- before you were age 18, did you think the surgeon general was being untruthful in putting these different warnings?
A. I don't recall ever seeing them. Like I said, I couldn't tell you right now where the surgeon general's warning is on a pack of Camels, and I've been smoking for a heck of a long time. So I know that back then I didn't pay attention to them, nor did I ever see them or remember seeing them.
Q. Did you remember seeing them at all on the other advertisements you would see in magazines or billboards?
A. Yeah. You just don't pay attention to them. They're put off to the side. They're not the bud of what's in those advertisements. What you want to believe, again, is the good things, the positive images that are being created for you. You don't want to read about the bad sides of it, and you just don't want to believe that. What you want to believe is the positive aspects.
Q. So you didn't want to believe these warnings and disregarded them?
A. They're very easily overlooked by me because of how small they are. They're not given much attention. I mean more so now than they were before, I'm sure. But it's just something I don't recall as looking at and saying, "This has a big

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effect on my decision on whether or not to smoke."
The surgeon general is not the cigarette company. It was like the surgeon general was someone fighting the cigarette company, and that's why cigarette companies put those warnings off to the side and make them small.
Q. All right. Before you were 18, do you believe there was anything that anybody could have told you that would have kept you from smoking?
A. Philip Morris and every tobacco agency, industry, whatever, of California believes that you will die if you smoke. If someone were to put these on there and say, "The makers of this cigarette believe that quitting smoking now reduces the risk," da, da, da --
Q. I think the only difference -- I'm sorry. Go ahead.
MR. Di SAIA: I thought he was done.
Q. Go ahead.
A. If they would have actually admitted to it or given the reasons, admitted to the effects that smoking has and put the warnings on there themselves -- if it was Philip Morris or the maker of that cigarette -- it would have a heck of a lot more impact on me had I not thought that they were just trying to throw the surgeon general, whoever that is, at me.
Q. So the exact same warnings, except for fill

in the manufacturer for the surgeon general, would have kept you from smoking?
A. I'm not saying it would have. I said it might have. The fact that it's mocked is why I don't pay attention to these that much. Had it been that whoever is mocking these ads actually put them on there and put them in their advertisements of any kind, then it would have a much greater effect than would the surgeon general warning. That's just thrown to the side, and that is they obviously don't want it on their packs of cigarettes, so --
Q. Okay. The mocking that you keep mentioning -- explain for me what you're talking about.
A. Like those Camel ads that have things like "This ad contains radio-active dog, bomb shelter," and then the other one where they have the guy and a bunch of women in a stew, and it says it contains hungry women, whatever else. They're making fun of what the surgeon general warning is trying to say, and it just merits, what that warning is. It makes it seem if it's nothing and you should throw it away.
Q. What else, besides those two ads that you remember, mocked these surgeon general warnings?
A. How small they are. If a warning is that serious, it should be put right on the front. It should be on the back of the box. It should say Camel on the front, and the back should have this

entire page. It's a small, little box in the corner that you know the tobacco industry doesn't want on there, and that you know, if it could be off there, they'd take it off and let you smoke anyway. It's just -- it's not taken seriously by the tobacco agency. So why should I take it seriously, if the tobacco agency thinks it's all right for me to throw that warning away? And there's still people having fun, and I'd rather believe them.
MR. GUSTAFSON: Move to strike on the grounds that the response is nonresponsive, and the witness is clearly speculating, testifying as to facts of which he has absolutely no knowledge.
BY MR. Di SAIA:
Q. Anything else that you believe mocks the surgeon general warnings?
A. Other than what I've previously said, nothing that I can think of right now.
Q. You mentioned previously that you tried quitting to smoke on more than one occasion. When did you first try to quit smoking?
A. When I started chewing tobacco.
Q. When was that?
A. During high school I never really tried to quit. I just used them at the same time, both chewing tobacco as well as cigarettes. But in college, I think it was my freshman year, and again my sophomore year. I don't know for how long a

period of time or exactly when it was.
Q. Have you been chewing tobacco since you were 16 as well?
A. No. I tried it once back then, and then did it periodically throughout, along with smoking cigarettes and things like that. But, I guess, once I got to school and the heat was so much different, it was easier to chew, so I tried to quit smoking. But I immediately wanted to start back up once I no longer liked the -- I never really liked it. It just gave me a buzz at first, I think, is why I think I liked chewing tobacco.
Q. So the reason initially that you decided to intend to quit smoking was because of the heat?
A. It was because I knew it was something I just didn't want to continue to do. But I still felt like I needed nicotine or something like that, so I tried chew, and the appeal of chew just wasn't there for me. I still wanted smoking rather than getting my nicotine through my lips. So ultimately I began smoking again because I wanted that image other than the spitting one.
Q. Did chewing tobacco -- different than smoking?
A. Definitely did. It had the rougher, tougher Texas cowboy, mean baseball player. Just stereotype it into one. It was a rough guy that chewed.

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Q. Was that because you had seen baseball players chewing tobacco?
A. I hadn't really recognized that much. That was more of the big chew. I was talking about the dip kind you put in your front lip and up there, and I had seen, for the most part, many occurrences where cowboys that did that. That's what I thought they were.
Q. Okay. And you think this might have been your freshman year?
A. Yes, my freshman year of college when I tried to quit cigarettes and began chewing, but I had tried it previous to that.
Q. Okay. And for what period of time -- I'm sorry. Strike that.
You tried to quit prior to that?
A. No. Tried --
Q. Chew?
A. Yes, prior to that.
Q. So the first time you intended to quit smoking was your freshman year in college?
A. Yes.
Q. For what period of time did you not smoke on that first attempt?
A. Couple of weeks at the most. Two weeks at the most.
Q. Okay. Then you went back to smoking?
A. After I didn't -- after I no longer really

got the same sensation through dipping -- and I couldn't do it in a crowd of people anyways, because it was appalling to women -- I would rather have that cigarette. The image is much better for me, and I just could comfortably smoke in front of people. I couldn't comfortably dip in front of people.
Q. How is the sensation different?
A. It hurt to dip. Cuts your lip up, so all of the tobacco and nicotine, whatever else is in there, going into your lip, with the fiberglass I guess is in there, it hurt. But at the same time, it was tough, so that's why the hurt was there. I didn't mind doing it with my buddies, but that's eventually why I started smoking again, was because I wanted the cool image that I still felt comfortable with, and that was smoking.
Q. When did you next attempt to quit smoking?
A. I tried to quit smoking or chewing the following year.
Q. When you were a sophomore?
A. Yes, it was my sophomore year, towards right about the start. I was going to say more towards summer. The start of my sophomore year, I tried again. I just couldn't stop. I felt like I was being teased by advertisements and billboards. They were all having fun smoking, and it immediately made me want to have a cigarettes. I wanted those good times.

Q. Did you quit at all for any length of time during your sophomore year?
A. Again, no more than two weeks.
Q. Did you chew during that period of time, or dip?
A. Maybe once or twice. Not regularly. I didn't -- I just chewed to try to get -- I didn't buy cans of chew instead of cigarettes. I just might bum a chew off a friend.
Q. And you believe you started smoking again because of the images you were seeing from advertisements?
A. I believe I was -- it definitely led to my smoking again, was the constant barrage of advertisements that I was seeing, and just every time I saw those, I wanted a cigarette. I wanted to be able to smoke, socialize, take on somewhat of an image again. But at the same time, I didn't want to dip, so --
Q. During that period of time in your sophomore year, when you did quit smoking for that length of time, did you become physically ill to the extent you had to go to a physician?
A. I don't think so, no, not that I recall.
Q. Did you have friends not spend time with you because they said you were too irritable or too difficult to be around?
A. I wouldn't say that was the case. I don't

remember anything like that happening.
Q. Do you believe presently that you're addicted to cigarettes?
A. I believe I'm addicted to nicotine. I believe I like cigarettes rather than chew, but I believe that, if I had to, I could chew instead of have a cigarette, but cigarettes right now is what I want. I like them, and I do believe I'm addicted to the nicotine. I need it.
Q. Well, you like cigarettes. Do you believe you like them for the same reason, or is there something else you like about them?
A. I like the way it's cool to be sociable. It's easy to have a cigarette. It's fun to have a cigarette. It's smooth. It's what you're wanting to do when you're socializing, is taking on a role of something. And it's -- if you're nervous or you want to talk to someone, you can have a cigarette, and it can actually affect your mood, give you confidence to talk to someone.
Q. And do you think you'd have less confidence in your socializing today if you did not smoke?
A. To some degree. I think that there's times when I would like to have a cigarette because I feel that it gives me confidence, and I'm having a cigarette, and I can do that with any type of social gathering. That's about it.
Q. You believe that's why you like cigarettes?

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A. For the most part. Besides the effect they have on me after a meal or something like that, as I said before.
Q. When did you believe you first became addicted to cigarettes, or nicotine?
A. I think becoming addicted to cigarettes and becoming addicted to nicotine are two different things in my case. My nicotine addiction I might have realized later. Being addicted to cigarettes was more so being addicted to the image I was trying to create for myself and the image I wanted to portray. It wasn't that I was originally addicted to the nicotine, I don't think.
Q. Okay. Let's break that down, then. Do you believe presently you're addicted to the nicotine you receive from cigarettes?
A. Yes.
Q. When do you believe that addiction developed?
A. I couldn't put a specific date on it. I don't know.
Q. All right. Do you think you were addicted before you went to college?
A. Yes. Yes, but I don't know when that addiction started. I feel that my actions showed I was addicted in some way, shape or form. My buying cigarettes and continually smoking them maybe shows that I was addicted to the nicotine. It was more so

that I was addicted to the image I was trying to portray and that I was constantly being shown.
Q. Okay. When do you believe you first became, as you put it, being addicted to that image?
A. I became addicted to that image before I ever started smoking. I had always idealized the smoker with something. Those advertisements always backed what I had idealized, so I was addicted to that image before I ever started smoking. Otherwise, I wouldn't have started, I don't think.
Q. And you believe presently that you could maintain that image if you didn't smoke?
A. Which image are you talking about?
Q. The image you said --
A. The image I associate smoking with?
Q. Yes.
A. If I didn't smoke?
Q. Yes.
A. No. Because there's not a social image of me smoking. Socially I wouldn't associate myself with that image if I didn't have my pack of cigarettes or my actual smoking. I don't get what you're asking me.
Q. Well, you have portrayed a cool image -- let me put it that way -- that you associate with smoking and that you have termed as an addiction for you. What I'm trying to find out, do you think you could be as cool if you didn't smoke?

A. Yeah. I know now that the image I portrayed was completely false. I don't want that to be the image I take on now. I believe now that I realize my addiction is to the nicotine. I'm saying that was when I was addicted to smoking, was because of that image. I became addicted to it, because that's what I was in need of first. I didn't need nicotine to start out.
Q. Has any doctor said that you're addicted to nicotine?
A. No. I never met with a doctor for something like that.
Q. Ever talk to a doctor at all about smoking?
A. Yes.
Q. Who?
A. My family doctor.
Q. When was the first time you talked to him about smoking?
A. About last year, when I went to check on this common problem I had.
Q. Was that the first time you ever discussed smoking with your doctor?
A. The first time I could seriously remember that, yeah. Beforehand, I might have just said I didn't smoke, or if they asked me, I would lie, because I was maybe embarrassed. But at that point, I had told them that, yeah, I smoked, because I had a cough.

Q. Did you know, if you did tell the physician earlier when you lied, that he was trying to give you a lecture about the harmful effects?
A. No. I had no idea. I just didn't want my mom to find out if I told him.
Q. I think you mentioned earlier that -- I don't recall the occasion. You have to remind me. You went to some sort of event that you received a free package of cigarette. What was that again?
A. They sponsored a party -- they sponsored anything, and a man travels around with a big box of cigarettes and gives you whatever you want. It doesn't have to be an excellent -- they will just give it to you.
Q. I'm talking about just you. How many occasions have there been that you received free samples of cigarettes?
A. I couldn't even count. Numerous times.
Q. Okay. And could you recount for me, to the extent you remember, what types of events those were when you received free packs of cigarettes.
A. Usually any type of social gathering where a lot of people would be there. But I received them in a supermarket, on the street, anywhere. They push them on to you. You don't have to find them. They'll find you.
Q. Hang on. Did you recall any of those events occurring before you were 18?

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A. Yeah. The one I went out to visit and I originally told you about, I was still a junior in high school.
Q. That's right. You went to the University of Arizona?
A. Yes.
Q. Where were you on that occasion?
A. I was outside of a fraternity house.
Q. You were at a fraternity party?
A. No. I didn't go into it actually at that time. I wasn't allowed in. But I was outside.
Q. But there was a party going on?
A. Correct.
Q. And you received a free package of cigarettes on that occasion?
A. A few packs.
Q. A few packs. And the person that gave you the packages – did they ask you for identification?
A. Didn't ask me for anything. Just passed them out.
Q. Any other occasion you remember before you were 18 when you received a free packet of cigarettes?
A. Outside of a bar in La Jolla, actually the 7-11, the guy with the sack. And yeah, before I was 18, I know I got a couple free packs from one or more of those guys.
Q. You mentioned an event outside of a bar.

Any other specific event you remember?
A. It wasn't outside of a bar. The bar is right next to the 7-11 where I usually buy my cigarettes. I think he was coming out of there, going to the 7-11. And he gave me some.
Q. Anything else?
A. I think an off-the-wall block party in La Jolla, I think they have a cigarette man walking around by the Beer Garden – 21 and over at the Beer Garden – I think he walks in there, I think.
Q. But usually stationed at the beer garden?
A. The entrance to it. It's just separated by age. Keep kids out of there, obviously. But I wasn't 21 the last time I was there, so I wasn't inside of there, and I still saw a guy passing out cigarettes.
Q. Apart from these occasions you're talking about involving free samples, have you ever participated in any other type of promotional activity? And by that, I mean sending in coupons for free merchandise or obtaining hats or T-shirts or things like that.
A. Yes. I actually collect Camel cash in a large amount. All my friends do. And when I buy cigarettes at school, it's usually buy two, get one free, in terms of packs. And there's – I think there's been mail-in rebates and attached to – I think it's predominantly Marlboro packs of

cigarettes. And I definitely remember buying two, getting one free. That might have been Camel. I can't recall whether it was Camel or Marlboro. I know it was one of the two.
Q. Apart from those, anything else you participated in yourself?
A. In accordance with promotions?
Q. Yes.
A. Seeing the banners and stuff like that all over the campus.
Q. Well, do you own any clothing that –
A. Uh-huh.
Q. – that has logos on it?
A. Yes.
Q. T-shirts?
A. Yeah, ash trays, dinner tray or something like that. Hats, lighters. Friend of mine has a bean bag or something.
Q. And you got those through promotionals? You bought them at stores?
A. Mainly rebates, things like that, where you mail in the – cash or – Camel cash or Marlboro Miles, to receive free merchandise.
Q. Okay. Apart from the information you already testified to with concern to the image that you see in advertisements, is there anything else about cigarette advertisements that you believe to be deceptive or misleading?

A. I believe any type of cigarette advertisement is deceptive or misleading.
Q. Any in way apart from what you have already talked about?
A. I don't know if I covered it all, but everything they show you is misleading, absolutely everything, besides the warnings, which can even be misleading, because it's being mocked by something right next to it. Other than that, I feel everything that is advertised about cigarettes, by cigarette companies, is misleading.
Q. And in an attempt to break it down, you mean the image they portray in connection with cigarettes?
A. Portray, the pictures they show, the words they associate with cigarette smoking, all of those are false images that are made – made just to create a positive image about smoking. So it's all false.
Q. What words?
A. Smooth, great taste, straight up, cool, anything that might be a slogan for one of those companies seems to in some way, shape or form make you believe that, if you smoke these cigarettes, you'll be cool, smooth, straight up.
Q. Great taste?
A. That's one I don't like. I don't like the taste of cigarettes. But that wouldn't appeal to me. It would appeal to someone else.

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Q. So that one in particular –
A. Well, I've tried Winstons before, because I think they're the ones that claim to have great taste, but I still don't like the taste. I still enjoy smoking a cigarette for its satisfaction. It just gives me satisfaction through smoking and to probably my addiction to nicotine.
Q. Do you know anybody that does enjoy the taste of a cigarette?
A. Yes. Yes, I do.
Q. So do you still believe that saying a cigarette tastes good in an advertisement is misleading or deceptive?
A. To me it is.
Q. Oh, okay. But not to everyone necessarily?
A. To anyone who's under the age of 18, it certainly is.
MR. GUSTAFSON: Can we take a break when you get a good break point?
MR. Di SAIA: Right now is fine.
(Recess taken.)
BY MR. Di SAIA:
Q. I think when we broke, we were talking about promotional activities, at least we were just before we broke. You talked about the different things you participated in and receiving coupons for merchandise and other things you've done. Did you do any of that stuff before you were 18?

think that's the extent to which I've actually subscribed.
Q. When was that that you actually subscribed?
A. I don't know the exact years. It was for a period of about two or three years.
Q. Was that back when you were in college?
A. No. That was when I was younger, grade school, middle school, somewhere around there. Or I had my mother subscribe to it for me. I think my name was on it.
Q. Okay. At that grade level, apart from Sports Illustrated, were there any other magazines that you read on a general basis?
A. I'd take a look at any Playboy or Penthouse that was put in front of me.
Q. An admission. Thank you.
A. I mean, I don't know if I read it regularly. Obviously I read it when I looked at it. I didn't subscribe to it or buy it regularly.
Q. What about high school? About the same?
A. Yeah. I'd look at it and stuff. Friends of mine bought it regularly, so I'd look at it regularly.
Q. Now, the advertisements you've spoken of – did the appeal to you, from the advertisements, change at all after you turned 18?
A. My appeal may have been for different reasons. But all and all, they still appealed to

A. Like I said, I received free packs of cigarettes before I was 18.
Q. Well, I'm not talking about that. Again, I'm talking about the activities where you have sent in coupons or gotten merchandise, ash trays, platters, anything of that sort, buying things with Camel bucks?
A. I don't think I ever sent anything in for that, but I may have collected them or something. I just – I assumed that was a promotion, two for – pay for two, get three. That I participated in.
Q. Before you were 18?
A. Yeah, I think so.
Q. Apart from that and the free package you talked about on the different occasions, anything else that you participated in, before you were 18, of a promotional nature?
A. Just the free merchandise I was given, given T-shirts, things like that. Sometimes, if those guys have pens, ash trays, I think they might have given me an ash tray or something. That's all prior to being 18. And the packs of cigarettes, obviously. I consider that promotional merchandise.
Q. Got that. Do you currently subscribe to any magazines?
A. Not subscribing to any right now, no.
Q. Have you ever?
A. I subscribed to Sports Illustrated. I

you. They still bring up an image that you want to be, and it's all due to the advertising, pictures and slogans, even where they place the advertisements. You can associate smoking with beautiful women in a women's magazines or being an athlete if it's in a men's magazine.
Q. So the same images that you derived from them before, you still derive from them, after you were 18?
A. After I was 18, yes. The only thing that might have changed was that I might have taken on more images or been interested more and more by the positive images that were – like not even relevant to me, but just like anything I would have seen out of any of those advertisements. I could have made it into something positive, because every picture is nice and fun and –
Q. I'm sorry. Are you done? I don't want to interrupt you. Norm would get on my case. You mentioned earlier you came to believe, I think when you were 18 years old, that Marlboro Lights were a woman's cigarette; is that right?
A. Once I was going to college, I believed that the college girl smoked Marlboro Lights and that the college guy smoked Camels, as I had associated with the advertisements I had seen, and that's pretty much the only thing I could pick that up from.
Q. Okay. Did you ever see an advertisement

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for Marlboro Lights that contained a woman?
A. Marlboro Lights, usually, I just connect with the box. I don't remember seeing many pictures of Marlboro Lights with the horse and the man. That was Marlboro Reds. So the box of Marlboro Lights I assumed and was made to be like it's a wife cigarette.
Q. Okay. Well, I'm going to shoot for an actual answer to the question. Can you remember actually seeing an ad where there was a woman on the ad for Marlboro Lights?
A. Maybe a shadow of a woman or something like that. You know what I mean? Some ads don't have anything but the actual box itself. There may be palm trees or feminine-type designs to them. So yeah. I mean, the possibility of seeing the shadow of a woman on a beach or something like that might be what I remember.
Q. Do you have a specific recollection of that? You say, "might be." That's why I'm asking.
A. A recollection of which?
Q. Seeing any female stylings or a shadow or anything of a woman in an ad for Marlboro Lights, a specific recollection.
A. That I can say right now, I don't have a specific ad in mind.
Q. Do you think it was more that you saw women at college smoking Marlboro Lights that gave you that

connection?
A. I hadn't been in college when I decided to switch to Camel and had made that assumption. I had made that assumption prior to that, and that was because, like I said, I think I associated the Red Marlboros with the man. The Marlboro Lights, a woman cigarette. It's light. Marlboro Light. It's packaged more femininely. It's slim with gold designs. And then the red box is red. It's the tough one. So I associated the Marlboro Man's wife to Marlboro Lights.
Q. Did the box or the ads you saw change at all from when you were 16 to when you made that switch, when you were 18, to Marlboro Lights?
A. The complete packaging of them or anything?
Q. Yes.
A. I couldn't tell you if they had made changes to them or not. But it was more in the direction to my seeing Camels as the cool guy. That's what I liked about it.
Q. I'm just trying to get closer to when it is about Marlboro Lights, that you came to associate it with women.
A. The name.
Q. The "light" part?
A. Quite obviously. I mean, Marlboro medium is a bold, robust name. It's packaged boldly. It's boldfully colorful. And Marlboro Lights is light.

Slim. Light colors. It's packaged -- it seems feminine.
Q. The reason I asked you about the change -- which you don't recall there having been one -- is because it seems -- correct me if I'm wrong -- you didn't draw that connection when you were 17? You smoked Marlboro Lights, and you didn't think it was a woman's cigarette.
A. No. I still could have thought that. Plus the fact that I said when I was 17 -- like I said before, that was what was there. That's what I was going to smoke, because it was easy for me to get without identification. That's why I got those. I just said that the switch came when I believed -- my college life and what I wanted was through those advertisements of Joe Cool, Camel, things like that was what I wanted to be at college.
Q. But the reason you started smoking in the first place was an image; true?
A. True. It was to idealize that image. To be able to experience or show that that's what I want, was to be part of that advertising.
Q. If the image was that of a woman, would you have started smoking that, even if it wasn't available?
A. Yeah. It doesn't matter, because the cigarette was what I was getting after. Like I said before, the individual images I had for each and

every one of the cigarettes I associated with didn't matter. If I could get them mattered. That I could be cool and smoke mattered. Smoking obviously has an overall image that they all create, that it's cool, it's safe, it's good.
Q. I see. So at that point, if I understand you correctly, when you were smoking Marlboro Lights, it was the image of smoking in general that you were shooting for by smoking?
A. Yeah. The change came when I went to college, and I was able to buy different types of cigarettes without any intervention on behalf of a clerk or something, that I made the distinct change as to the brand I wanted to smoke and the person I wanted to be seen as, starting almost a new life at college. Camels were what I wanted to be like. It's through those advertisements that seem to sway me towards that rather than what I thought as women's cigarettes and Marlboro Lights.
Q. Now, when you were a -- strike that.
Did your mother, as far as you know, ever attempt to quit smoking?
A. She may have told me that she was going to attempt to quit. I don't know that she honestly ever gave it a hundred percent effort or not. I couldn't say. She'd be the only one that could answer that.
Q. Do you recall ever, in your time living with her, her telling you -- or seeing her trying to

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quit smoking?
A. I know she used to chew Nicorette to control the cravings, so that may be an attempt to quit.
Q. When was that?
A. It's been numerous times, since I can remember her smoking, that she's used Nicorette. Maybe not extended periods of time that I remember. She used it more frequently or not. She continuously smokes it -- chews it to try to control cravings, I'm sure.
Q. Do you recall her doing that when you were in high school?
A. Uh-huh, yes.
Q. As early as your freshman year?
A. Yeah. I can remember Nicorette, the gum, and her saying that she would try to quit, that she wanted to quit, up until then.
Q. So she told you as early as your freshman in high school that she was trying to quit cigarette smoking and she was chewing gum to do that?
A. No. I just knew she did, chew the gum rather than that. She never expressed to me that she was trying to quit fully. She mentioned she wanted to.
Q. I see.
A. Or she would try to.
Q. You knew what the Nicorette gum was for?

A. Yes.
Q. Did you ever try Nicorette gum?
A. Yeah.
Q. Yes?
A. I chewed on a piece once and hated it.
Q. Did you try it, or because you wanted to quit smoking?
A. Just try it. It looks like Clorettes, or whatever. Maybe that's what they're called also.
Q. Different gum. They do look similar, though. Did you try the patch or any other forms of smoking control?
A. I tried to stop smoking completely.
Q. I'm talking about aid devices like Nicorette gum or Nic-a-Patch or anything like that.
A. What do you think an aid is? Is that something that a company puts out to help you stop smoking?
Q. Did you ever use anything other than willpower to try to quit smoking?
A. Yes. Friends and groups like that, chewing gum.
Q. Okay. Did you go -- you said friends. Did you go to a group, some sort of counseling event?
A. Friends of mine might have been trying to quit smoking at the time also. I was friends with them. I obviously would talk to them about the hard times it was to try to quit smoking.

Q. Did any friend of yours ever give you a speech, take you aside, whatever else, to convince you not to smoke?
A. That I can remember, I was never given a speech that I shouldn't smoke. It wasn't -- wasn't expressed to me that someone was thinking very hardly that I needed to stop. It was that I wanted to stop and that my mom obviously didn't want me to smoke. So it was the thoughts of people and their dissatisfaction with me smoking that made me want to stop, plus the fact, obviously, that it's not healthy. I don't want to smoke.
Q. Well, back when you were in high school, did any friend or associate, girlfriend, anyone you associated with, express to you dissatisfaction with your smoking and suggest you stop?
A. May have said that I smoked too much and wondered why, yeah. I know actually that my girlfriend said that a few times.
Q. What grade were you in?
A. That was my tenth-grade year, the summer before that, through the beginning of college.
Q. And she said you smoked too much?
A. Just asked me why I smoked so much and wished I wouldn't do so sometimes.
Q. Did you cut down or stop smoking, for any period of time, because of that?
A. No, I don't think I did. It wasn't a

serious-enough talk to make me want to quit or stop or do anything like that. It wasn't a severe speech, as you want to say.
Q. I imagine she didn't smoke?
A. No, she smoked occasionally.
Q. She just thought you were smoking too often?
A. Correct.
Q. You believe at present you're able to control your cigarette smoking?
A. Yes and no. One, because at times like this, I can go without, obviously, having a cigarette. But I know I'll have one today, later today, tomorrow, sometime in the near future. But sometimes there's just no time that I can go through a day without the urge to smoke.
Q. Would you be able to control that urge? Say you didn't want to smoke today. Do you have enough control that you wouldn't smoke for today?
A. Yeah, but that would be like betting on it, because I still know that sometime down the line, I can have a cigarette, so it's a matter of willpower. And I can't willpower the rest of my life, hoping that that last day I could have a cigarette, the day I die. It's some type of intervention that's needed, I think, on my part.
Q. You don't believe you could stop today and never smoke again?

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A. No.
Q. Do you know of people that have stopped completely?
A. I don't know anyone that hasn't -- it depends on what you're talking about. I know someone that may have smoked for a year, one time a week and doesn't smoke any longer at all. But I don't know anyone that smokes with the regularness that I do and has quit completely.
Q. When was it you first realized that you couldn't quit completely, you were unable to control it?
A. Probably after the second time I tried to quit.
Q. That was your sophomore year in college?
A. Uh-huh. So it's been a little over a year and a half since then.
Q. Do you believe that's because the first time that you smoked or second time you smoked, you made a serious effort not to smoke, that you made that realization?
A. Well, I think that I made that realization because I couldn't stop smoking. Every time I saw something, a picture of smoking, an ad, I wanted a cigarette and I had the urge to smoke one right then and there. I still, every day, when I see any type of ad or anything, have the urge. And I don't think that urge will ever leave me without some type of

intervention. I don't -- medically or some other.
Q. Have you sought medical intervention?
A. Besides for the ailments that smoking may have caused me, no.
Q. I'm sorry. What ailments did smoking cause you?
A. A cough that may have been caused by that. So besides getting that back to par, then no.
Q. I'm saying going to any type of medical provider, professional, to obtain assistance to quit smoking.
A. No. I went to get Nicorette gum or something like that, but they didn't have it at my school, the on-campus pharmacy. So I chewed regular gum. I was told about some kind of lollipop that gives you -- gives you tobacco or something, and I was interested in that. It gives you nicotine, not tobacco.
Q. I've got a few Craig-suggestion questions. Oh, yeah. That ad you mentioned earlier about the worms coming out of the eyes, the exorcist one -- when is it you saw that ad?
A. Just recently at school. Very recently, within -- since school started, or since I've been back for school, which has been a little over a month. I know I've seen that ad. But prior to that, I think it got banned in California or something, because of -- the nature of it was too severe for

kids to view.
Q. So before that, you don't remember seeing any advertisements on TV about smoking -- about the negative effects of smoking?
A. Besides that, I've seen one about chewing tobacco with a grasshopper. That's the only other one I can really remember, prior to this school year and maybe before that. I'm seeing more of them now and more of them in Arizona than I do here.
Q. Do you recall seeing any when you were in high school?
A. I don't remember any, off the top of my head.
Q. That seminar field trip that we talked about, that Ms. Daniels also participated in -- I believe she testified in her deposition that there were conversations during the course of that about the misleading or deceptive nature of cigarette advertisements. Do you recall that being addressed at those?
A. I don't recall much -- going over much of that, but had I recalled that, I'm sure I would have just discounted it on the fact because I wanted to believe was the positive image that was being portrayed through the advertisements and things of that nature. And being that I did smoke, that conflict that was presented to me between the positive image they were portraying and the image

that these teachers might have been talking about, is probably why I don't remember, because I chose to believe in the advertisements and the positives they're trying to basically lie to me about.
Q. Do you recall learning anything at all about deceptive or misleading practices, the adverse effects of smoking or addiction to smoking, during the course of that seminar field trip, that you didn't already know?
A. Like I said before, I don't remember what may have happened at that place. I really wasn't there to do that anyways.
Q. You had mentioned there were written texts or pamphlets that were handed out.
A. Passed around, things like that.
Q. Did you read them?
A. Might have flipped through them. I didn't give them much notice, just wasn't things that caught my attention as much as the ads did. Those are things you want to see. Leaflets and brochures telling you not to smoke are boring. So I definitely would have remembered an advertisement that was pro smoking, rather than a leaflet or brochure that would have been anti-smoking.
MR. Di SAIA: I think that's everything I have.
MR. LENDRUM: No questions.
MR. BLUMENTHAL: Thank you. Our usual stipulation.

83939356

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MR. Di SAIA: Agreed.

(The stipulation referred to is incorporated herein as follows:

MR. BLUMENTHAL: "Let me give the stipulation. What we can do is, if it's acceptable with counsel, to make this the stipulation for all of the transcripts. What it is, we'll relieve the court reporter of her responsibility. We'll allow the witness to sign the deposition under penalty of perjury. The original will be sent initially to me or the counsel for the defending party. That counsel will be responsible for getting the original to the witness for the witness to review, sign, make any changes that are deemed appropriate, return to the defending counsel, who within that 30-day period, from receipt of the original, will return it to the taking counsel and the taking counsel will be responsible for producing it at any trial and will have custody, care and control of it.

To the extent that the deposition is not signed within 30 days, a copy can be used as if it were an original. Same to the extent the original is lost or destroyed, a copy can be used as if it

were the original. I think I got it all.

MR. LENDRUM: To the extent it's not signed within 30 days, it will be deemed to have been signed under penalty of perjury.

MR. BLUMENTHAL: That's fine.

MR. DiSAIA: So stipulated.

MR. LENDRUM: So stipulated.

MR. WRIGHT: So stipulated.")

(Whereupon, at 12:45 P.M. the deposition concluded.)

* * * * *

I hereby declare under penalty of perjury that the foregoing deposition is my deposition under oath; that these are the questions asked of me and my answers thereto; that I have read my deposition and have made the necessary corrections, additions or changes to my answers that I deem necessary.

IN WITNESS THEREOF, I hereby subscribe my name, this ______ day of ________________ 1999.

DAIMON FULLERTON

STATE OF CALIFORNIA)
) SS.
COUNTY OF SAN DIEGO)

I, Florinda St. Cyr, CSR No. 10180, RPR, hereby certify that I reported in shorthand the above proceedings on FRIDAY, SEPTEMBER 3, 1999, at 750 B Street, Suite 2100, in the City of SAN DIEGO, County of SAN DIEGO, State of California; and I do further certify that the above and foregoing pages, numbered from 4 to 128 inclusive, contain a true and correct transcript of all of said proceedings.

It was stipulated that the original deposition be delivered to Norman Blumenthal, Esq. for the purpose of having the witness read, correct and sign the deposition under penalty of perjury; said original thereafter to be forwarded to and maintained by Daniel Eaton, Esq. until the time of trial.

DATED: September ___, 1999.

FLORINDA ST. CYR
CSR NO. 10180, RPR

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were the original. I think I got it all.
MR. LENDRUM: To the extent it's not signed within 30 days, it will be deemed to have been signed under penalty of perjury.
MR. BLUMENTHAL: That's fine.
MR. DiSAIA: So stipulated.
MR. LENDRUM: So stipulated.
MR. WRIGHT: So stipulated.")
(Whereupon, at 12:45 P.M. the deposition concluded.)

* * * * *

I hereby declare under penalty of perjury that the foregoing deposition is my deposition under oath; that these are the questions asked of me and my answers thereto; that I have read my deposition and have made the necessary corrections, additions or changes to my answers that I deem necessary.

IN WITNESS THEREOF, I hereby subscribe my name, this 10 day of OCTOBER 1999.

DAIMON FULLERTON

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1
1 89:18
10180 1:22 128:5,24
1100 3:6
11th 41:9
12 7:6
12:45 127:10
1200 2:14
128 128:11
1420 2:5
1590 8:5
16 16:8 19:18 20:19 21:26 26:5 29:6 32:5 35:10,25 36:2 36:8,19,24 38:23 39:23 42:12 43:2 64:23 90:4 97:3 115:13
16th 36:12,14 36:15
17 35:13 36:19 42:12,24 46:11 66:26 116:6,10
18 32:12 49:27 50:2,5,19 54:6 54:10,21,22 55:12,21 56:11 57:1,2 58:14 62:2,25 64:7 66:6,11 66:13,15 68:3 71:17,18,19 83:2,19,23 84:8 85:1 87:2 87:9 93:2 94:7 105:28 106:22 106:26 110:16 110:28 111:2 111:12,16,22 112:26 113:9 113:10,21 115:14
18th 2:20
1978 7:6
1985 89:21
1997 10:4 13:6 13:14
1999 1:18 5:1 127:19 128:7 128:20

2
21 7:4 107:9,14
2100 1:19 128:8

3
3 1:18 5:1 128:7
30 41:6,7,9 126:25 127:3
30-day 126:18

4
4 128:11
400 41:13

5
5 4:3

6
600 3:5
64105 2:15

7
7-11 16:20,25 20:22 22:24 32:22 43:9 55:7 106:25 107:3,5
719446 1:10
7248 7:8
750 1:19 128:7

8
8:45 5:2
801 2:20

9
90017 2:21
92101 2:7 3:7
94111 3:14
97 9:26 10:12
99 10:12 11:22

A
A.M 5:2
able 17:23 22:18 41:28 42:2,9 47:28 51:25 59:18 76:21 100:17 116:21 117:11 121:9,17
about 5:19 8:23 10:16,19 12:14 13:4,8 13:11,12,28 14:3,5,8,12,15 14:16,21,23 15:15 20:8 21:28 22:2 25:12,15,20 26:18,27 29:13,24 30:10,13,16 30:18,21 31:7 31:7,9,21,22 32:27 35:9,22 35:25 36:2 38:25 43:1,12 44:4 49:9 50:4 50:21 51:10 52:11,19 54:7 54:19 55:12 56:7 57:5 58:15 59:13 59:14 60:12 61:17,18,21 61:22 62:21 62:24 66:15 66:19 67:1,12 67:13,16,18 67:21 68:18 68:26 70:4,16 71:7,26,27,28 72:3,4,5,7,12 72:18,27 75:25 76:8,22 76:26 77:2,3,3 77:14,22 78:9 78:13 79:7,8 79:24 80:3,11 80:26 81:3,4,7 81:13,20,21 81:27 82:2,3,5 82:21 83:1,19 83:21 84:6,28 85:15 86:11 87:28 88:3,9 88:10,10 89:1 91:13,16,17 91:23 93:19 95:14 98:4 99:22 101:12 101:27 103:13 104:13,18,19 105:3,15 106:2 107:18 108:27 109:4 109:10,18 110:24,25 111:3,4,15 112:5,20,20 115:20,22 116:3 119:14 119:27 122:5 123:15,20 124:3,3,5,15 124:17 125:1 125:4,6
abouts 31:20
above 55:1 128:6,10
absolute 69:3
absolutely 73:10 96:13 109:6
abundance 59:10
acceptable 6:15 126:6
accordance 108:7
acquired 45:10
act 46:6
acting 10:16
action 45:27
actions 102:25
activities 110:24 111:4
activity 107:20
actual 38:28 47:3 103:22 114:9,14
actually 6:2 10:5 17:23 22:1 37:16 43:24 45:7 53:12 66:13 67:3 68:14 73:26 74:9 88:1,11,12 94:20 95:6 101:19 106:10 106:24 107:23 112:1,3 114:10 120:18
ad 57:23 82:7 82:12 84:24 85:1,3,8,10 95:16 114:10 114:11,23,26 122:24,27 123:20,22,26
addicted 31:25 65:4 68:27 70:14,19,23 70:26 71:3,12 71:21,25,28 72:11 101:3,4 101:8 102:5,6 102:7,9,10,12 102:15,22,26 102:28 103:1 103:4,5,8 104:5,6,9
addiction 39:16 65:17 68:26 70:27 71:1,15 72:13 81:4 102:8,18,25 103:26 104:4 110:7 125:7
addictive 31:16 31:17 68:24
additions 127:17
address 7:7 8:3 8:9,9,18,19,24 79:1
addressed 11:14 73:1,18 73:23 77:18 78:23 124:19
adequately 53:28
admission 112:16
admitted 94:20 94:21
ads 24:1 39:12 42:1,7 57:6,18 57:20,25 59:8 59:11,19 67:22 69:4 83:20,21,28 86:22 88:9,19 88:23,28 95:6 95:15,23 114:13 115:12 125:19
adults 38:4
adverse 125:6
advertised 109:10
advertisement 47:16 50:28 57:13 65:20 86:19 109:2 110:12 113:28 125:22
advertisements 10:18,23 11:2 11:6,9 13:26 14:3 20:7 21:14 40:4 43:23 44:17 46:18,22 47:6 47:22 48:9 57:4,28 59:2 65:20 66:21 67:3,6,11,13 67:17,18,19 69:7 70:9 71:10 82:21 82:28 83:7,13 83:18,26 84:7 84:28 88:16 88:21 89:4,10 89:12,14,22 92:1,16,21 93:12,16 95:7 99:25 100:12 100:15 103:7 108:26,27 112:24,25 113:3,15,26 116:16 117:17 124:3,19,25 125:3
advertising 48:15 54:12 54:17 57:11 57:17 113:2 116:22
advising 5:24
affect 92:4 101:19
affected 13:28 53:17
affecting 21:10
after 9:27 12:8 15:18 24:23 27:24 33:8 34:9,10 39:22 53:8,9,11 54:19 57:1,2 58:14,17 60:10 61:11 77:11 78:1 83:23 98:28 98:28 102:2 112:26 113:8 113:10 116:27 122:13
again 6:8 8:2 18:6,19 19:8 21:6 27:10 35:7 36:2 38:1 39:14 43:11 44:24,28 45:16 49:14 50:22 51:23 53:2 60:2 62:9 68:23 93:17 96:27 97:21 99:14,24 100:3,10,14 100:18 105:9 111:3 121:28
age 7:3 28:22 35:10,13,25 36:8 38:23 39:23 40:1,10 40:19,24,27 46:11 49:18 49:25 50:4,12 50:16,21 52:6 72:18 74:26 74:26 93:2 107:13 110:16
agencies 69:6
agency 94:10 96:6,7
ages 9:7
ago 9:27 78:27 82:26
agree 69:4,5,6 69:8
agreed 14:1 126:1
ahead 94:17,19
aid 119:14,16
ailments 123:3 123:5
al 1:13
allow 126:10
allowed 106:11
almost 59:19 60:3 61:7 74:2 74:10 90:9,18 117:15
alone 17:6 22:26 23:24 24:2 25:3,5
along 85:6 97:5
already 108:25 109:3 125:9
Altos 9:5
always 8:14,24 20:26 24:27 25:7 33:14 43:8 57:20 63:14,16 83:8 84:23 89:15 103:6,7

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amended 12:22
America 3:6
amount 39:5 42:20 107:24
Angeles 2:21 41:3
angry 29:5,7,10 29:11
another 14:24 18:23 22:11 23:5 24:22 25:11 34:27 35:5 38:14 51:28 77:9
answer 6:4,16 114:9 117:26
answers 127:16 127:17
anti-cigarette 73:10 82:7,25
anti-smoking 74:10 76:6 77:21 80:7,9 82:12 125:24
anybody 9:13 22:28 25:16 28:15 70:6,17 77:27 80:10 87:3 91:17 94:8 110:8
anyone 21:18 27:7,11 45:15 70:3 85:21 110:16 120:14 122:4,8
anything 10:17 11:10,13 12:15,19,25 12:28 13:2 14:5 22:3 30:13,18 31:22 37:25 40:16 43:16 47:10 49:9 50:1,9,18,23 50:24 71:8 72:2 73:7,27 75:22 78:13 79:11 80:9 82:4 83:1,12 85:4,14 87:6 87:27 88:10 89:3,7,8 94:8 96:15 101:1 105:11 106:19 107:6 108:5 108:26 109:21 111:6,8,15 113:14 114:14 114:23 115:15 119:15,19 121:2 122:27 125:5
anyway 96:4
anyways 99:2
125:12
anywhere 105:24
apart 14:25 30:12 44:27 45:5 62:18,23 78:20 81:24 82:28 83:7 84:14 86:22 87:3 88:19 89:4,12 107:17 108:5 108:24 109:3 111:14 112:11
appalling 86:28 99:3
appeal 54:12 58:4 97:18 109:27,28 112:25,27
appealed 57:26 112:28
appearance 47:3,19
APPEARANC... 2:1 3:1
appeared 89:21
approached 13:20 14:13
appropriate 126:17
Area 9:6 15:18 15:21
Arizona 7:26 8:7 9:10 51:10 59:1 106:5 124:9
ARNOLD 2:19
around 10:1 11:21 16:5 18:15,20 20:7 25:6 28:10 39:28 40:4,9 40:24 41:2,6 48:9 51:21 52:1,3,7 55:7 56:22 58:24 58:28 72:1 82:17 83:15 100:27 105:11 107:9 112:8 125:15
arrived 58:23
ash 108:16 111:5,20,21
ashes 52:17
aside 69:26 120:2
asked 17:16 34:14 49:16 49:17,22,24 49:25,28 50:4 50:7,9,12,16 50:17 66:14 66:15,27 68:2
71:25 74:14 75:1,17,23,24 104:25 116:3 120:24 127:16
asking 10:15 14:24 21:28 22:2,5 40:17 50:13 55:12 103:23 114:20
aspects 93:21
assistance 123:10
associate 47:7,8 62:10 63:19 63:26 64:2,6 64:11,14 67:14 84:16 85:7 87:12 90:26 103:15 103:20,25 109:16 113:4 115:22 120:14
associated 46:15 62:14 70:11 71:15 77:23 78:18 86:25,25 87:15 113:25 115:5,10 117:1 120:15
assume 65:19 92:10
assumed 111:10 114:6
assumption 115:3,4
athlete 53:28 113:5
athletic 53:26
athletics 54:4
attached 107:27
attempt 77:28 98:24 99:17 109:12 117:22 117:24 118:3
attempted 25:23
attend 79:10
attendant 17:13 56:14
attention 90:8 90:10 93:9,14 93:26 95:5 125:19
attitudes 13:28
attorney 6:14 9:15,23 10:6
attribute 53:24 53:26
attributed 31:23
available 55:9 62:12,26 63:5 116:25
aware 79:21 87:9
away 18:23 34:27 35:2 45:28 46:7 50:11 60:1 95:22 96:8

B

B 1:19 2:8 4:7 128:7
baby 91:2
back 9:26,26 10:3 29:19 30:10 40:23 52:15 59:1,18 64:23 76:18 93:1,9 95:27 95:28 97:4,9 98:27 112:6 120:13 123:8 123:25
backed 103:8
backs 85:9
backyard 16:10 17:6 22:26
BACON 2:12
bad 29:18 67:26 68:19 73:12 78:15 93:19
badder 54:15
badly 66:20
bag 108:18
Banky 75:2,16 75:25
banned 123:27
banners 108:9
bar 106:24,28 107:2,2
barrage 100:14
baseball 97:26 98:1
based 47:3,5 57:10
basic 28:26
basically 14:11 38:2 68:12 69:10 89:16 91:14 125:4
basis 19:5 42:14 49:22 53:2 63:4 89:26 112:13
basketball 52:22 79:4
bathroom 6:28 61:8
Bay 9:6 15:18 15:21
beach 25:8 33:18 114:17
bean 108:18
beautiful 113:4
became 56:8
60:2 102:4 103:4,5 104:6
become 100:22
becoming 102:6,7
beer 107:9,9,11
before 5:16 8:17,27 9:12 9:17,21 10:26 12:9 13:2,10 13:13,16 14:22 15:7,15 17:5,27 18:4,9 19:6,18 20:10 20:18 21:25 29:14,23 30:2 32:10 33:11 33:16 35:1 36:12 41:15 42:26 45:23 50:19 54:23 55:21,25 56:11,12 57:17,18 59:5 63:3 64:7 66:3 66:6,12,15 68:3 72:12 76:14,25 80:21,23 83:18,23 84:7 85:1 86:2 87:2' 87:9 89:22 90:13,16 91:28 93:1,27 94:7 102:3,23 103:5,9 105:28 106:21 106:25 110:2 110:25,28 111:2,12,16 113:8 116:11 116:28 120:22 124:2,8 125:10
beforehand 5:20 104:24
began 31:3 58:17,19 97:20 98:12
beginning 42:19 74:5 120:22
behalf 1:8 117:12
behind 56:13
being 5:5 13:8 19:28 22:18 36:19 39:15 40:4 46:17,24 48:8 50:16,17 51:25 57:16 59:10 64:27 67:8 69:25 71:9 73:9,11 74:21 77:2
80:1 85:15,21 86:17,21 90:14 92:16 92:21,23 93:3 93:18 99:25 102:9,10 103:2,4 109:8 111:22 113:5 124:19,24,26
beliefs 57:5
believe 37:23 48:13 67:7 68:11,13 69:1 69:2,9,9,16,21 69:26 70:2,20 70:22 71:4 72:2 73:16,16 75:10 78:5,6,7 83:3 85:14,17 85:20,24,27 86:3 87:20,23 89:4 91:14 92:14,19 93:17,20,20 93:22 94:8,14 96:9,15 100:10,13 101:2,4,5,6,8 101:10,28 102:4,15,18 103:3,11 104:3 108:27 109:1,23 110:11 113:20 121:9,27 122:18 124:16 124:24 125:3
believed 13:24 13:27,28 21:16 23:28 48:14,17 65:13 67:1 69:28 70:16 71:2 86:1,19 113:23 116:14
believes 94:11
believing 68:14 86:17,21 87:22,23
benefits 22:17
Benson 45:1 83:24
Berkeley 9:3
besides 9:11,16 11:12,23 12:19 14:23 18:1 19:28 20:9 48:21 51:2 56:17 61:6 76:28 80:6,17 82:14 88:21 95:23 102:1 109:7 123:3,8 124:5
best 77:6 92:13

83939360

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Beth 75:2
better 43:27
44:4,5 52:2
63:27 85:19
99:4
betting 121:20
between 9:6
10:11 27:26
36:18,23 46:9
47:2 48:19
49:9,12 62:16
67:15 84:3
87:18 124:27
beyond 11:5,9
38:18 61:12
87:5
Bible 38:17
big 41:4,4 59:9
93:28 98:4
105:11
bigger 54:15
59:6 63:27
biggest 83:15
billboard 21:23
billboards
46:22 59:2
86:26 87:26
93:13 99:25
birthday 7:5
bit 6:23 39:10
39:22 42:26
52:23 59:22
block 107:7
blowing 24:10
blows 52:16
blue 44:19
blumenthal 2:4
2:8 5:18 33:2
72:14 88:25
125:27 126:4
127:6 128:14
boarding 37:3
boat 14:1
Bob 49:3
bold 44:19
115:27
boldfully
115:28
boldly 115:27
bomb 95:16
book 63:7
boring 125:21
born 9:3,5 17:2
borrowed
64:26 65:1,14
borrowing 64:4
both 60:18
96:25
bought 17:11
17:18,27
18:11,27 21:9
22:13,25 25:1
32:4 33:6
34:18 35:2
43:16,25
45:27 46:24
49:16,23 55:6
55:25 56:4
108:20 112:22
Boulevard 2:5
17:1
box 18:7 46:23
95:27 96:1
105:11 114:3
114:5,14
115:9,12
Bracken 75:10
brand 20:4,13
21:11,19 43:7
43:8,13,15,18
47:7,8,18 48:2
54:23 55:16
55:23 56:6,8
56:11 60:22
61:27 62:3,10
62:11,23,28
63:2,25
117:14
brands 19:25
20:6,14 21:3
43:22,23
44:15 45:6
46:11 48:20
54:11 55:3
62:1 83:27
84:17
break 6:27
10:26 27:21
72:14 102:14
109:12 110:18
110:19
breath 53:26
brief 10:18
82:21
Briefly 11:25
bring 37:27
113:1
bringing 24:9
Broadway 3:5
brochure
125:23
brochures
125:20
broke 110:23
110:25
brought 50:7
60:9 69:15
71:24 79:6
brown 2:18
47:1
bryce 1:6 13:8
13:11,12
14:17,22
33:27
BS 68:12
bucks 111:7
bud 93:16
buddies 99:13
built 69:22
bum 34:5 63:17
100:8
bummed 51:24
63:15 65:14
bunch 68:12
77:12 95:18
Burton 75:11
buy 17:9 22:4
32:6,11,13,14
32:16 34:15
34:20,23,27
34:28 35:5,7
37:24 43:8,10
43:13 45:17
56:15,23 58:9
58:10,13,27
62:3,15,22,23
63:14,17,21
63:22,25,28
64:10 65:2
90:7 100:7
107:3,24,25
112:19 117:11
buying 21:11
22:7 32:5 43:6
43:19,21
45:25 46:10
46:16 55:22
55:28 57:9
63:12,24
66:10 102:26
108:1 111:6
buzz 97:11

C

cabin 37:19
cabins 37:18
california 1:1
1:20 2:7,21
3:7,14 5:1
7:12 9:9,11
37:1 94:11
123:27 128:1
128:9
call 5:13
called 38:7,9
78:17 119:9
came 74:13
88:1 89:4
113:20 115:22
116:14 117:10
Camel 19:28
46:28 47:20
47:24 48:6,12
48:18 54:14
57:8,14,23
61:28 63:5,26
65:7 84:18
95:15,28
107:23 108:2
108:3,22
111:7 115:3
116:16
Camels 20:10
43:15,17
44:27 45:5
46:9 47:21
48:16 54:18
55:1,25,26
56:8 57:7,23
57:24 58:5,10
58:11 61:28
62:15,24,25
62:26 63:25
63:25 65:12
65:27 83:23
90:6 93:7
113:25 115:19
117:16
camp 36:10,19
36:24,27 37:3
37:6,9,16,16
38:2,12
Camping 38:20
campus 74:11
108:10
CANADY 3:11
cancer 27:2,8
27:12 28:23
28:24,27
31:12 80:12
80:27 81:1
87:3,4,8,10,12
87:14,16,19
87:19,21
90:24
candy 18:1,7
cans 100:8
Capris 45:1
65:16,23
car 52:15
carbon 91:4,6
care 30:9 32:9
32:24,26 46:5
55:12 81:8
86:26 91:6,8
126:23
cared 77:25
78:5 91:5
caring 77:2
Carry 18:20
carrying 41:2
cartoons 82:16
82:20
case 11:18 13:3
42:9 61:11
65:10 72:13
100:28 102:8
113:19
cases 72:26
cash 107:23
108:22,22
cashier 55:2
categorized
41:24
caught 38:1
66:13 125:18
cause 87:21
91:3 92:24
123:5
caused 27:12
31:12 53:21
123:4,7
causes 78:15
90:24
celebrities 87:6
Center 3:12
certain 20:9
42:20 51:2
certainly 15:28
87:10 110:17
certify 128:6,10
change 57:10
112:26 115:12
116:3 117:10
117:13
changed 113:11
changes 115:18
126:16 127:17
chastised 52:9
cheapest 62:28
63:2
check 104:19
chew 97:8,18
97:18 98:4,18
100:4,8,9
101:5,6 118:2
118:22
chewed 97:28
100:7 119:5
123:14
chewing 96:22
96:26 97:2,12
97:23 98:2,12
99:18 118:21
119:21 124:5
chews 118:10
choose 87:20
chose 85:17,18
85:23 125:2
Christian 37:4
38:8
chronic 53:25
cigarette 14:24
16:16 18:7
19:1 21:17,26
23:2,11 24:6,8
24:23,24 27:9
27:12 34:8
35:11 36:13
36:25 39:14
40:22 42:13
44:7,14 46:16
46:19 47:4,6,7
47:10,13,17
47:26,28 48:1
48:8 53:9 54:7
54:11,15 57:8
58:6,7,12
59:12 60:10
60:23,25 61:1
61:3,19,20,26
62:4,6,7,10
63:10,19,20
63:27,27 64:7
64:12,15,17
64:18,22,27
64:28 65:1,3,6
65:14,19,24
73:19,24
78:24 79:1
81:19 82:22
83:3,6 84:24
85:7,15 89:21
91:4,23 92:1
92:15,20 94:2
94:4,4,13,24
99:4 100:16
101:7,14,15
101:18,24,26
105:9 107:8
108:27 109:1
109:10,16
110:5,9,12
113:22 114:7
115:7 116:8
116:27 118:20
121:10,13,22
121:24 122:25
124:18
cigarette-smok...
59:1
cigarettes 11:7
16:16,23 17:7
17:25,27 18:1
18:4,10,14,15
22:8,21,25
24:16,18,24
25:14,17,25
26:4 28:7,9,19
29:23 30:2,6
31:26 32:4,6,7
32:11,13 34:5
34:15,17,23
34:26 35:13
35:23 37:23
42:16 43:10
44:1,12,23,26
45:18,25,27
46:15 49:10
49:14,23
51:12,20,24
55:22,23 56:3
56:15 61:22
62:22 63:17
63:25 64:10
65:25 66:10
68:3 69:17,27
70:14,19,23
70:26 71:3,22
71:25 72:11
72:19 73:8,12
78:14,15 79:8
81:5 83:19,21
86:1 87:21
88:5,13 90:3
92:2 95:11
96:26 97:6
98:12 99:27
100:8 101:3,5
101:7,10,28

83339361
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102:5,6,9,16
102:27 103:22
105:12,17,21
106:15,23
107:4,16,25
108:1 109:10
109:14,23,27
111:2,22
117:1,12,19
circumstances
16:5,6 25:3
52:14 71:9
City 2:13,15
9:2,4 128:8
claim 110:3
class 15:5 22:9
22:14,16 41:5
41:11,12 73:1
73:3,18,22,26
74:19 75:14
75:15 76:2
77:26 78:1,17
79:4,11,13,14
80:13,18,22
80:27,28 87:4
class-room
76:7 77:15
classes 72:27
73:13 76:21
78:10,12,16
78:22 79:5
80:11 81:3
clear 5:23
clearly 96:12
clements 1:6
11:12,15
13:11,15
clerk 117:13
clicked 41:21
cliques 41:15
Clorettes 119:8
close 19:4 38:14
55:6 81:18
87:5
closer 115:21
clothing 108:11
club 74:10
coaches 81:12
81:16,18
coalesced 72:7
collect 107:23
collected 111:9
college 56:7
57:5,12,13,14
57:19,22
58:19 59:16
59:17,25 66:3
71:14,18 72:1
72:4,5,9 96:27
98:11,21
102:23 112:6
113:23,24,25
114:28 115:2
116:15,17
117:11,16
120:22 122:15
Colorado 36:28
colorful 115:28
colors 116:1
combination
20:16
come 15:1
32:27 44:6
67:14 71:5
comfortable
22:10,14,17
22:20 23:25
99:15
comfortably
99:5,6
coming 9:12
23:13,15
60:26 71:19
80:10 107:4
123:21
comments
30:23
commercials
82:4,25
committing
46:6
common
104:20
commonly 20:4
20:6,13
communications
88:26
companies 1:12
88:22,27
91:15 94:4
109:11,22
company 2:11
3:10 88:1 89:5
91:23 94:2,4
119:17
complaint 9:27
11:18 12:17
12:20,22,26
complete
115:15
completely
13:27 35:24
69:14 104:2
119:13 122:3
122:9,11
concern 108:25
concerning
13:3,21 68:1
83:27 89:5
concluded
127:11
confidence
41:28 42:7
55:10 101:19
101:21,25
confident 48:18
54:28
conflict 47:9
67:9,15,22,26
69:15 124:27
conflicting
68:10
connect 114:2
connected 27:8
connection
87:18 109:13
115:1 116:6
connoisseur
44:18
consequences
45:25 52:8
consider 45:24
46:3 111:23
considering
22:13
consistent 54:9
constant
100:14
constantly
103:2
consumption
42:13,15
contain 128:11
contained
114:1
contains 91:4
95:16,18
continually
102:27
continue 42:28
58:14 97:16
continued 3:1
26:6 43:5,6
45:22
continuously
118:9
control 118:3
118:10 119:12
121:10,17,19
122:11 126:23
conversation
5:28 10:5,10
13:5,10,14,14
14:28 66:25
conversations
25:21 29:22
29:26,27 67:4
67:28 69:17
70:18 124:17
convince 120:2
cool 22:23
23:15 39:15
40:6 41:17
43:7 48:6,13
48:16,17,17
52:7 53:8 56:6
56:8 57:7,13
57:14,23
61:28 63:26
65:26 66:21
66:22 67:2,6,7
67:7,22,23
68:28 69:8,24
78:8 84:10,11
86:1 99:15
101:13 103:24
103:28 109:20
109:24 115:19
116:16 117:3
117:4
cooler 49:4
54:14 57:8
coolest 63:6
83:9
copy 11:17
126:25,28
corner 96:1
correct 11:7
14:4 37:21
45:9 64:7
76:23 78:11
106:13 116:5
121:8 128:11
128:15
corrections
127:17
correctly 117:7
correlated 48:7
cough 23:16
24:13 104:28
123:7
coughed 23:17
coughing 24:13
53:25
counsel 126:6
126:13,14,18
126:20,21
counseling
38:15 119:24
counselor
74:16,28
counselors 38:4
38:7,9,10
74:14
count 105:18
counter 21:1,3
54:27 55:4,24
56:13,14 83:8
Country 37:10
84:12,14
counts 9:22
14:25 52:18
county 1:2
128:3,8
couple 10:24
24:18 72:27
98:25 106:26
coupons 107:20
110:26 111:5
course 73:23
85:13 89:20
124:17 125:8
courses 85:13
court 1:1 5:20
6:1 126:8
covered 109:5
cowboy 97:26
cowboys 98:7
CRAIG 2:16
18:24
Craig-suggestion
123:19
cravings 118:3
118:10
create 102:11
109:17 117:4
created 21:16
69:7 93:18
credit 73:26
cross 17:2
70:24,25
crowd 99:2
CSR 1:22 128:5
128:24
current 7:7
currently 61:27
111:24
curriculum
78:11 79:27
custody 126:23
cut 120:26
Cuts 99:8
cyr 1:21 128:5
128:23
D
D 2:22 4:1
D-a-i-m-o-n
5:11
da 94:15,15,15
daily 51:7 53:2
daimon 1:7,12
4:3 5:4,11,13
127:21
Daniel 128:18
daniels 1:6
11:12,15 75:3
124:15
date 76:28
102:20
DATED 128:20
day 17:8 18:27
23:4,5,8,9
24:23,26
25:12 33:8,11
33:11 35:3,21
35:23,26
58:22,25
59:14,27,27
59:28 60:3
61:24 121:16
121:24,24
122:26 127:19
days 13:18
24:18,20
33:13 35:3
36:1 37:7,20
126:25 127:3
dead 28:25
deal 29:27 37:5
70:21
deceptive
108:28 109:2
110:13 124:18
125:6
decided 97:13
115:2
decipher 83:22
decision 94:1
declare 127:14
deem 127:17
deemed 126:17
127:3
DEFENDANT
2:18 3:3,10
defendants
1:14 2:10
defending
126:13,18
defined 35:18
definitely 39:17
43:22 74:23
97:25 100:13
108:1 125:21
degree 53:13
101:23
delivered
128:14
depended 34:17
depends 51:23
122:5
deposed 72:26
deposition 1:11
5:15 6:13 7:14
9:13 13:3
18:25 68:17
124:16 126:10
126:24 127:11
127:15,15,16
128:13,16
depositions
89:19
depth 11:13
derive 113:8
derived 113:7
describe 16:4
38:11 76:4
description
10:18
designs 114:15
115:9
despite 87:17
destroyed
126:28
detail 31:5,8
DETERT 2:19
developed 40:8
80:12 102:19
devices 119:14
devin 1:6 75:3
di 2:22 4:3 5:8
18:26 33:4
72:16 89:2
94:18 96:14
110:20,22
125:25 126:1
diameter 47:28
die 27:1 69:21
90:23 94:12
121:25

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died 26:26 28:21,22,25 70:10 87:3,4,7 87:16
DIEGO 1:2,20 2:7 3:7 5:1 7:12 8:8,15,20 8:22,25 15:18 16:25 26:27 27:24 55:6 128:3,8,9
difference 46:8 46:14 48:19 48:22 49:9,11 62:19,20 64:1 64:2,12 84:12 94:16
different 19:27 22:19 23:12 35:24 40:14 44:11,12,13 44:14,15,22 46:14,27,28 47:1,2 54:11 56:19 57:2,16 57:20,22,25 57:26 58:4 60:14,25 62:6 62:11,14 64:15,15 65:9 65:9,19,21 83:27 84:16 84:16 86:6 89:19,25,26 89:27,27 92:15,20 93:3 97:7,23 99:7 102:7 110:25 111:15 112:27 117:11 119:10
difficult 15:27 100:27
dinner 108:16
dip 98:5 99:6,8 100:5,19
dipping 99:1
direct 91:22
directed 88:6
direction 115:19
directly 56:13 67:20
dirty 49:6
DiSAIA 127:7
discounted 124:23
discuss 81:23
discussed 14:26 77:18 104:21
discussion 33:3 76:7 81:24
disease 80:12 80:27 90:24
diseases 31:21 77:23
dislike 60:18
disregarded 93:23
dissatisfaction 120:10,15
distinct 117:13
Diuretic 61:9
doctor 104:9,11 104:13,16,22
documentation 10:11
documents 10:4 10:25
dog 95:16
doing 34:4 39:18 40:16 50:9 52:9 57:25 66:10 71:20 79:17 85:28 99:13 118:12
done 13:25 14:11 34:7 88:10 94:18 110:27 113:18
doubt 88:2,13
down 5:21 6:2 10:26 23:19 27:21 50:14 55:1,10,11,19 56:21 68:12 71:10,20 76:28 88:12 88:16 102:14 109:12 120:26 121:21
draw 116:6
drawn 59:18
drink 6:28
Drive 7:8
driver's 78:21 80:13 85:13
driving 80:23
due 58:26 113:2
DULY 5:5
dumb 90:9,13 90:14
during 6:13 25:13,17 35:28 36:1,10 38:23 40:2 42:11 43:1,11 44:24 45:7,16 49:13 50:24 59:4,17 61:24 66:24 73:3 82:19 96:24 100:2,4,20 124:17 125:7
dweebs 41:17
dying 70:9

E

E 2:16 4:1,7
each 5:24 89:24 116:28
earlier 27:15 68:17,18 71:2 86:7 105:2,6 113:20 123:20
early 31:19 118:15,19
easier 5:22 42:4 50:11 85:6 97:8
easiest 20:28 56:6,25
easily 93:24
East 8:5
easy 5:27 55:17 69:4 101:14 116:12
Eaton 128:18
ed 78:21 80:13 85:13
educate 76:21
education 38:16,17 78:19,28 79:11,16,23 85:12
effect 48:3 81:1 84:22 91:18 91:20,22 92:2 94:1 95:8 102:1
effects 68:18 70:1 77:14,19 79:9,24 80:4 80:16 81:23 82:5,22,23 85:15 86:11 88:3 94:21 105:3 124:4 125:7
effort 117:25 122:20
either 30:8 58:11
elementary 15:17 27:22 29:20 30:10 30:14
else's 23:14 47:17 48:1,2 60:26
Embarcadero 3:12
embarrassed 45:13 104:26
emphysema 31:22 90:25
empty 18:7,14 18:18
end 29:1 42:23 43:3,12 44:25 45:17 49:15 50:22
enjoy 24:5 28:16,17 60:5 60:6,7,9,28 61:11 110:5,8
enjoyed 24:7 61:2,2
enough 13:5 32:27 48:18 48:18 61:24 71:8 121:19
entered 7:14 18:25
entire 23:18 24:12 33:14 92:26 96:1
entrance 107:12
environment 37:9
ESCHER 3:15
esq 2:8,16,22 3:8,15 7:13 18:24 128:14 128:18
estimation 42:13
et 1:13
even 27:21 50:12 64:7 79:21 90:5 105:18 109:7 113:3,13 116:24
event 50:23 51:3 105:8 106:28 107:1 119:24
events 51:2 105:20,28
eventually 99:14
ever 5:15 14:21 16:5 17:27 18:3,17 21:18 21:24 27:7,11 29:13 31:21 32:10 41:24 49:15,25 50:3 50:19 55:3,21 70:25 71:24 73:9 76:27 77:1 78:15,28 79:11 80:1,10 81:12 82:3 93:5,10 103:6 103:9 104:13 104:21 107:18 111:8,27 113:28 117:21 117:24,27 119:2,19 120:1 122:28
every 33:8 35:10 39:12 45:27 46:6 65:13,20 66:28 88:4,18 88:23 90:7 94:10 100:15 113:16 117:1 122:23,26
everybody 59:11
everyone 58:4 59:3 76:7 110:15
everything 5:22 48:7 83:5 86:2 86:12,20 88:15 109:6,7 109:9 125:25
everywhere 69:24
exact 22:6 24:17 39:5 94:28 112:4
exactly 16:27 19:26 84:21 97:1
EXAMINATL... 5:7
EXAMINED 4:2
example 64:16
examples 65:16
excellent 105:13
except 10:17 18:21 31:9 61:13 63:9 76:8 88:23 92:3 94:28
exception 65:26
Exhibit 89:18
exists 87:10
exorcist 82:9 123:21
experience 116:21
experiment 62:27
experimented 44:22
experimenting 68:27
explain 95:13
explained 67:27 68:9
express 120:15
expressed 118:23 120:6
extended 29:27 35:28 118:8
extensive 25:21
extent 6:17 15:24 30:16 52:11 66:5 75:19 81:7 84:6 100:23 105:20 112:1 126:24,27 127:2
eyes 123:21

F

F-u-l-l-e-r-t-o-n 5:12
fact 21:11,13 22:22 25:28 29:2,8,12 30:7 30:20 32:21 33:26 53:7,12 55:15 58:26 58:28 61:18 80:6 81:14,22 81:28 83:8,13 85:27 87:17 95:4 116:10 120:11 124:23
factor 21:10 30:6 44:10
factors 22:12
facts 96:12
Fair 13:5
fake 49:20
FALK 3:11
fall 36:18 82:9
false 104:2 109:17,18
family 104:16
far 25:28 29:19 72:26 117:21
father 26:25,26 28:21 87:3,10
feel 22:10,14,16 22:19 23:23 42:6 47:1 61:19,26 85:10 91:22 101:24 102:25 109:9
feeling 17:28 18:19 22:6 39:14
fellowship 37:20 38:8
fellowship-type 37:4
felt 17:26 23:27 42:3 47:2 53:27 57:13 58:11 97:16 99:15,24
female 114:22
feminine 116:2
feminine-type 114:15
femininely 115:8
few 9:26,27 15:17 56:22 82:18 106:16 106:17 120:19 123:19
fiberglass 99:10
fiddled 18:16

8393963

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field 74:1,6,19 76:4,17,20,26 77:19,21 81:4 85:11 124:14 125:8
fighting 94:3
Figueroa 2:20
figure 72:8
figured 30:8 86:28
file 14:8
filed 9:28 11:18
fill 94:28
filter 47:1,21 47:27
find 66:2 91:17 103:27 105:5 105:25,26
fine 26:22 44:9 64:9 65:23 69:24 88:5 110:20 127:6
finish 33:5
finished 34:10 34:26 78:1
fire 38:18
first 5:5 9:22 10:3,11 13:7,9 13:20 15:24 16:1,5 18:28 22:1 23:10,10 24:6,8,15,24 26:7,8,10,10 32:4 33:6 34:7 34:26 35:28 36:1,13,13,25 36:25 38:10 60:8 71:5,7 72:8,18,20 73:11,17 96:21 97:11 98:20,24 102:4 103:3 104:7,17,21 104:23 116:19 122:10,18
fit 24:3
flavor 63:27
flipped 125:17
Floor 2:6,20 3:13
florinda 1:21 128:5,23
followed 10:24 76:19
following 10:10 39:6,9 99:19
follows 5:5 126:3
football 52:22 79:5
foregoing 127:15 128:10
forget 61:7
form 22:9 89:6 102:26 109:22
forms 119:11
forwarded 128:17
Foster 9:2,4
found 18:19,22
foundation 88:26 89:1
four 74:20 75:12 89:25
Francisco 3:14 8:28 9:1
fraternity 51:11 106:8,9
free 51:17,20 51:24 88:4 105:9,16,21 106:14,22,26 107:18,21,26 108:2,23 111:1,14,18
freely 87:25
frequency 62:23
frequented 55:8
frequently 85:5 118:9
freshman 72:5 72:9 80:20 96:27 98:10 98:11,21 118:15,19
FRIDAY 1:18 5:1 128:7
friend 14:14 21:26 45:14 100:9 108:17 120:1,14
friendly 87:25
friends 14:17 19:2,4,6 20:18 25:19,23,24 33:21,25 34:6 45:10,12,19 53:10 75:26 100:25 107:24 112:21 119:21 119:23,25,26
friendships 41:21
from 10:7 13:6 14:25 15:1,10 15:12,18,21 18:17 21:23 24:15,28 25:27,28 26:10,17,18 26:20,23 27:7 27:11 29:3 30:11,12 33:26 34:5 35:27 41:3,26 43:1,7 44:27 45:5,10,19 47:5 48:10 53:6 54:13 58:2 59:15,25 59:26 60:1 61:3 62:18,23 63:1,23 64:4 64:27 65:14 66:20 67:10 67:10,17,24 69:21 74:9,20 78:20 81:24 82:26,28 83:7 84:14 86:22 87:3 88:1,19 88:22 89:4,5 89:12 90:14 90:18 94:9 95:2 100:11 102:16 106:26 107:17 108:5 108:24 109:3 111:14 112:11 112:25 113:7 113:8,27 115:13 126:19 128:11
front 11:12 43:9 52:16 55:9 56:25 65:5,7 83:10 91:27 95:26 95:28 98:5 99:5,6 112:15
fulfill 46:1
fulfillment 17:25 18:5,19 39:15 44:14
full 36:8 39:2
full-flavored 48:26,28 49:6
fuller 54:14
fullerton 1:7,12 4:3 5:4,11 127:21
fully 118:24
fun 38:14 95:19 96:9 99:26 101:14 113:17
further 13:25 92:5 128:9
fuss 66:19 67:1
future 121:14

G

garden 107:9 107:10,11
gathering 19:16 22:16 51:28 85:25 101:27 105:22
gatherings 19:18
gave 51:12 67:21 78:4 88:13 97:11 106:17 107:5 114:28 117:25
general 14:26 35:10,12 49:22 51:7 58:16 59:23 60:24 79:15 87:19 89:20 92:7,11,16,21 93:2 94:2,3,26 95:1,9,20,24 96:16 112:13 117:8
general's 93:7
generally 27:21 59:24 84:27
get-together 76:13
get-togethers 21:25 76:13
gets 6:5
getting 23:20 38:1 40:5 45:28 46:7 51:20 59:6 61:16 65:8 68:9 73:26 76:2 97:19 108:2 116:27 123:8 126:14
ghetto 63:2
girl 41:27 42:9 56:3 57:14 63:10 84:23 113:24
girlfriend 56:1 120:14,19
girls 56:3 57:6
give 5:19 14:15 25:11 42:7 50:14 55:19 63:12 76:10 76:16,21 88:4 101:19 105:2 105:14 120:1 125:18 126:4
given 18:3,18 46:14 48:8 76:15 93:25 94:21 111:18 111:19,21 120:4
gives 60:10 101:25 105:12 110:6 123:16 123:16,17
glamorous 86:1
go 6:28 7:25 11:13 15:2,7 15:23 17:23 22:4 31:5 33:21,24 34:27 36:1,24 36:27 50:8 55:21 56:17 56:19 59:22 61:8 63:5 76:28 79:3 85:6,18 94:17 94:19 100:23 106:10 119:23 119:24 121:12 121:15
going 6:3 7:23 7:27 15:23 38:28 57:19 57:21,22 63:22 74:9 76:18 77:2 78:15 82:28 87:24,24 89:17 99:10 99:22 106:12 107:5 113:23 114:8 116:12 117:23 123:9 124:21
gold 115:8
gone 25:15 36:7 40:22 43:10
good 70:3 75:23 83:4,6 83:11,14 88:23 91:9 92:12 93:17 99:28 110:12 110:19 117:5
gotten 63:2 80:27 111:5
government 68:15
GPC 45:2 62:27
GPCs 62:5 87:1
grab 54:27
grade 15:20 27:19,27 41:9 41:12 80:18 112:7,11 120:20
gradual 59:15 59:26
gradually 58:22 59:6
graduate 15:10 15:12
graduated 7:28
grasshopper 124:6
great 21:22 109:20,25 110:3
greater 95:8
greatly 90:11 90:12,15
ground 5:19
grounds 96:10
group 3:3 40:6 41:24,25 74:8 74:10 77:27 80:7 119:24
groups 22:19 40:10,11,14 40:24 41:16 41:22 119:21
grown 52:3
grownups 52:1
growth 28:28
grunted 23:18
guess 14:25 20:28 52:18 63:6 71:7 75:20 86:12 97:6 99:11
guest 80:3,26
gum 118:16,21 118:22,28 119:2,10,15 119:22 123:12 123:15
GUSTAFSON 2:16 18:24 96:10 110:18
guy 42:1 57:23 58:12 82:1 84:23 95:17 97:27 106:25 107:15 113:25 115:19
guys 44:20,20 49:4 57:7 69:10 106:27 111:20

H

H 3:15 4:7
habit 71:1,15 71:24 72:12
habits 35:23 51:8 71:11
half 35:16,19 39:1 58:22,24 59:9,26,28 60:4 122:17
Hampton 8:5
handed 125:14
hands 59:8
Hang 105:27
happen 86:16
happened 68:5 77:6,24 125:11
happening 101:1
happy 6:21 60:8
hard 6:3 49:4 71:8 85:5 119:27
hardly 120:6
HARDY 2:12
harmful 69:18 69:19,20 70:1 72:19,21,23 73:8 77:14,19

83939364

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Some documents may be missing. www.industrydocuments.ucsf.edu/docs/rlxl0001

79:24 80:3,15 81:23 82:5,23 85:15 86:11 88:3,14 105:3
harsher 49:2
hated 119:5
hats 107:21 108:17
having 17:26 36:7 39:1 43:24 44:14 60:9 61:3,11 62:10 68:1 72:6 80:11,26 85:4 91:1 96:8 99:26 101:25 116:4 121:12 128:15
hazardous 68:18
head 6:1,2 20:11,12 21:7 21:15 57:21 69:22 72:7 80:5 82:8 83:16 84:28 124:13
headache 61:23 61:25
heads 41:17
health 72:27 73:1,3 78:10 78:13,18,18 78:21 85:13 87:4 90:12,13 90:16,18 92:12
healthy 120:12
hear 27:7,11 81:9
heard 5:20 13:7 13:9 31:3 32:10 49:9 61:6 81:9 86:6 89:9
hearing 40:26 67:24 72:19 73:7 86:5 87:27 88:3
heart 90:24
heat 97:7,14
heck 93:8 94:24
Hedges 45:1 83:25
hell 90:21
help 6:11 90:20 119:17
her 5:23,23 18:22 26:11 28:7,8,9,11 29:23 30:2,6 42:5 66:18,23 67:4,10,16 68:9,15 69:2 69:21 71:11 75:26 117:28 117:28,28 118:7,12,17 124:16 126:9
hid 25:28 28:7 28:9 29:8 30:2
hide 28:19 29:2 30:6 33:26
hiding 29:23 30:11 66:10
high 7:28 15:3 15:7 30:24 31:3,6 32:1 41:14,19 52:19 54:10 72:20,28 73:12,18,23 80:2 82:6 96:24 106:3 112:20 118:13 118:20 120:13 124:11
him 14:1 29:1 55:19 104:17 105:5
history 15:24
home 7:8,18 16:10 22:25 22:26,28 25:7 33:15 55:6
honest 14:15 37:2 76:8
honestly 117:24
hoping 121:23
horse 114:4
hour 12:14
house 7:15,16 18:15 106:8
HOWARD 3:11
hugging 84:23
Huh 76:3
huh-uh 6:1,11
huh-uhs 6:8
hundred 117:25
hung 41:16
hungry 91:24 95:19
hurt 99:8,11,12
hype 68:11

I

I.D 49:20,26 50:1,17,20 55:11,13,15
idea 13:12 14:10 41:4 46:1 50:10 66:27 75:16 75:23 79:27 92:8,26 105:4
idealize 116:20
idealized 103:6 103:8
ideas 13:26 57:21
identical 6:10
identification 17:14 49:16 49:17,23 50:13 106:18 116:13
identify 20:28 47:12,13,27 48:1
identity 47:9
III 3:15
ill 100:22
illegal 32:6,11 32:14,15,16 32:17,18,21 32:28 45:22 45:24,27 46:5 46:6
Illustrated 111:28 112:12
image 23:20 24:4 34:21 62:9,14 63:18 63:21,24 64:6 64:9,10,14,20 64:20,27 65:9 65:10,15 67:14,21 69:6 69:22,23,26 78:6,8 81:10 85:7 97:21 99:4,15 100:18 102:10 102:11 103:1 103:4,5,9,12 103:13,14,15 103:19,21,24 104:1,3,6 108:25 109:13 109:18 113:1 116:19,20,23 117:4,8 124:24,28,28
imagery 85:1
images 21:16 46:24 48:8,10 64:2 65:19 67:15,16 68:10 72:7 93:18 100:11 109:17 113:7 113:12,13 116:28
imagine 11:7 16:16 40:19 121:4
imitating 23:27
immediately 97:9 99:26
impact 94:25
impersonate 63:24
impression 48:3,4 49:1 57:27
in-depth 31:11
inaccurate 12:26
INC 1:12 3:3
included 10:23
including 81:4
inclusive 128:11
incorporated 2:10 126:3
increase 59:9 59:15,26
indicated 73:8
individual 116:28
individualize 40:13
individuals 41:25
industry 94:11 96:2
influence 55:16
influencing 30:6
information 108:24
inhale 18:12 24:8,16 91:8
inhaled 22:2
inhaling 24:9
initially 97:13 126:12
inject 22:19
inside 107:15
instance 51:9
instead 85:24 100:8 101:6
instruct 6:16
intend 97:14
intended 18:11 58:1 98:20
intending 22:8 23:19
intention 55:22
intentions 28:11 55:27 56:24
interest 43:26
interested 10:15 44:4 113:12 123:17
interests 92:13
interrupt 113:19
intervention 117:12 121:25 123:1,2
introduced 77:10
involve 76:1
involved 74:21 75:9 76:4 79:16 80:3
involves 5:19
involving 107:18
irritable 100:26
issues 78:18

J

January 7:6 36:23
JEFFREY 3:8 7:13
job 92:9
jocks 41:16
Joe 48:6 116:16
Jolla 15:2,7,10 17:1 41:4,19 106:24 107:8
JOSEPH 3:15
judgment 60:21
June 10:1 36:23
junior 43:3,12 44:25 45:17 46:12 49:15 50:22 51:9 73:20 74:3,4 75:13 106:2
just 6:28 9:11 9:17 10:21,21 10:24,26 11:25,28 12:16 14:11 14:28 17:20 17:24 18:3,19 19:15 21:6,15 22:7,23 23:4,8 23:12,20 24:9 25:5,9 28:3,9 28:13,16,25 28:28 29:12 29:26 30:20 31:4 32:26 33:1,17 34:18 35:9 36:5 38:25 39:20 40:12,28 42:26 44:13 45:4,28 46:7 50:12 53:6,22 54:14 57:18 58:9 59:21,23 60:23,25 61:2 62:4,6,13 64:8 64:28 65:3,24 66:14,20 68:11,27 69:13,14,20 70:7 71:16,20 71:24,27 72:11,21 73:10,15,16 75:11,18 76:7 77:11,25 78:5 78:23,26 79:3 79:3 81:6,8,21 81:28 84:23 84:24 85:9,27 86:2,15 90:26 91:14,20,25 91:26 93:14 93:19,27 94:25 95:9,21 96:5,25 97:10 97:16,18,26 99:5,24 100:7 100:8,15 104:24 105:4 105:13,15 106:19 107:12 109:17 110:6 110:24 111:10 111:18 113:14 114:2 115:21 116:14 118:22 119:8 120:24 121:6,15 123:23 124:23 125:18

K

Kansas 2:13,15
keep 18:22 34:23 41:28 76:18 88:6 95:12 107:13
kept 18:17 52:27 60:1 94:9 95:2
Kettner 2:5
kickback 53:11
kid 26:16,18,19 26:20 57:12 57:13 69:23 87:4
kids 74:9 107:13 124:1
kill 31:14 68:21 69:27 70:2,5,7 87:11,20,21
killed 29:1
killing 70:3
kind 16:23 17:25 23:27 27:3 37:14 40:12 44:20 56:26,26 58:11 60:7,9 63:10,23 64:1 65:3 74:1 84:15 95:8 98:5 123:15
kinds 19:27
KIRBY 3:4
knew 14:14,15 25:24 28:24 28:25,28 29:6 29:7,11,12 31:8 32:12,14 32:15,16,18 33:25 34:13

83939365

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41:25 46:2,4
47:21 56:26
66:5,8 69:19
69:20 70:10
70:13,17,28
71:11,23
72:12 81:15
81:16,19,28
87:13,19
97:15 118:22
118:28
know 6:3,18,20
7:1 8:2 12:23
14:13 15:27
17:3 19:20,26
22:7 23:6,8,9
23:18 25:22
26:13,14,19
27:3,19 28:11
29:10 32:8,17
33:12 34:2,19
35:10 38:8
39:5,13 41:13
42:18 43:5,15
43:16,21,22
44:3 45:3
47:18,23 51:1
51:5,27,27
53:25 54:2
58:3 60:6 61:6
62:16 63:28
65:28 66:6,9
66:26 67:25
70:20,21
71:27 72:10
72:10,25
74:24,25,27
75:18,20
76:27 77:16
77:25 79:2,26
81:7,16 83:22
87:2,6 91:3
92:7,9 93:8
96:2,3,28
102:21,24
104:1 105:1
106:26 108:4
109:5 110:8
112:4,17
114:13 117:21
117:24 118:2
120:18 121:13
121:21 122:2
122:4,5,7
123:26 125:9
knowledge 27:6
96:13
known 29:5
34:3 45:24
64:19

L

L 5:11
La 15:2,7,10
17:1 41:4,19
106:24 107:7
lacks 88:25
89:1
lacrosse 52:23
52:27
lady 84:20,20
large 74:1
107:24
last 9:19,20
12:7,9,12 16:1
37:6 39:4
62:24 71:14
72:26 104:19
107:14 121:24
later 23:5,22,24
24:23 26:11
30:24 34:28
59:24 102:9
121:13
lawsuit 13:7,21
14:8
lawyer 6:28
leader 77:15
leafed 11:28
leaflet 125:23
Leaflets 125:20
learning 125:5
least 19:5 26:15
28:26 30:21
41:14 110:24
leave 56:7
122:28
lecture 105:3
led 59:9 83:3
88:2 100:13
left 66:3
LENDRUM
3:8 7:13
125:26 127:2
127:8
length 100:1,22
less 11:27 12:9
24:20 28:20
35:15,16,17
35:19 39:2
52:1,4,14,15
53:1 92:6
101:21
let 5:19 6:18,20
6:28 87:25
96:4 103:25
126:4
let's 5:24 8:21
10:26 27:21
30:14 35:9
36:7 44:25
65:15 72:14
102:14
Letter 10:15
level 112:11
lie 86:9,12,14
86:18,21
104:25 125:4
lied 105:2
life 21:15 26:12
47:13 57:22
59:25 86:22
116:15 117:15
121:23
LIGGETT 3:3
light 16:24 49:9
115:7,7,25,28
116:1
lighters 108:17
Lights 17:18
20:2,20,23,25
20:26 21:6
33:6 35:7
42:28 43:6
45:5 46:9,27
48:26 49:5
54:25,26 55:4
55:24 56:13
56:15,20,23
56:23,24 57:7
57:15,28 63:8
63:10 113:21
113:24 114:1
114:2,4,5,11
114:23,28
115:6,11,14
115:22,28
116:7 117:7
117:19
like 10:25 20:7
23:21,23 24:1
26:17 28:3,4
33:11,16
38:19 40:4,5
41:9 42:1
43:23 44:18
44:19,28
45:23 47:20
49:2,11 50:27
51:3,5,25
54:28 56:27
59:19 60:12
60:20,24
61:13 62:5,7
62:27,27
63:11 64:8
65:5,21 66:11
66:19 73:25
73:27 74:1,10
75:25 76:6,11
77:8,15 79:12
80:9 81:14,28
82:9 83:9 86:2
87:1 93:5 94:3
95:15,15 97:6
97:17,17
99:24 101:1,5
101:8,10,11
101:12,13,24
101:28 102:2
104:12 107:22
108:9,17,21
109:26,26
110:4 111:1
111:19 113:13
113:14 114:6
114:12,17
115:5 116:10
116:16,27
117:16 119:8
119:14,15,21
121:2,11,20
123:13 125:10
125:15
liked 75:18,19
75:26 97:10
97:10,12
115:20
likely 25:10
27:23 43:14
liking 81:22
limitations
53:13
limited 53:13
line 63:6 121:21
link 84:3
lip 98:5 99:8,10
lips 97:20
list 89:19
listed 48:20
listen 81:11
90:21
little 6:23,24
8:13 26:16,18
26:19,20,22
39:10 42:18
42:26 52:23
54:8 58:15
59:22 60:4
96:1 122:16
123:25
live 7:17 8:8,27
9:3,6 87:25
90:20
lived 8:12,14,17
8:22 9:9 15:17
26:24
living 117:27
located 16:25
logically 71:12
logos 108:13
lollipop 123:15
long 8:12,21
12:12 13:16
14:17 17:5
24:14,15
25:10 26:13
26:14 32:3
33:5,12,17
35:1 37:6 39:4
60:23 61:24
65:25 72:24
82:26 93:8
96:28
longer 11:26
90:21 97:10
98:28 122:7
longest 37:7
look 6:9 10:4
11:24 12:10
34:17,28 42:1
42:6 53:20
71:8 112:14
112:21,22
119:10
looked 11:25
12:3,8 13:2
54:10,28
57:18 61:16
69:25 71:11
71:12 82:9
86:28 112:18
looking 12:12
47:13 59:25
71:20 92:12
93:28
looks 46:21
119:8
LORILLARD
2:11
Los 2:21 9:5
41:3
lost 126:27
lot 19:27 20:6
74:26 83:25
90:21 94:24
105:23
loud 86:8
lunch 16:1
lung 90:24
lungs 24:16
lying 50:3
85:23,26

M

made 17:26
20:27 25:3,6
30:23 39:13
46:17,20,25
46:27 48:5
50:27 51:16
51:28 63:1
67:7 99:27
109:17,17
113:15 114:6
115:3,4,13,17
117:13 120:10
122:20,20,22
127:16
magazine 46:22
113:6
magazines
86:26 93:12
111:25 112:12
113:5
mail 108:22
mail-in 107:27
Main 2:14
Mainly 108:21
maintain
103:12
maintained
128:17
majority 55:5
make 5:23
18:22 22:10
22:15,20 25:5
42:6 51:13
60:21 65:21
90:22 94:5
109:22 121:1
126:6,16
maker 94:23
makers 94:13
makes 6:3 61:8
91:20 92:6,25
95:21
making 28:11
38:18 61:15
68:13 95:19
man 49:3 57:23
105:11 107:8
114:4 115:6
Man's 115:10
manufacturer
95:1
many 24:24
29:16,25
35:13 42:16
56:17 67:28
68:4 74:18
82:14 98:6
105:15 114:3
marked 89:18
MARKHAM
2:4
Marlboro
16:24 17:18
19:28 20:2,10
20:19,23,24
20:26 21:6
33:6 35:7
37:10 42:28
43:6 44:9 45:1
45:5 46:9,26
46:27 47:24
48:7,26 49:3,5
51:2,11 54:13
54:24,26 55:4
55:23 56:13
56:15,20,23
56:23,24 57:7
57:15,28 58:5
63:6,8,8,9,10
83:24 84:11
84:14 107:28
108:3,22
113:21,24
114:1,2,4,5,5
114:11,23,28
115:6,7,10,11
115:14,22,26
115:28 116:7
117:7,19
Marlboros
20:19 44:27
48:27 49:7
55:8,17 56:5
115:6
material 12:3

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materials 10:28 87:28
matter 13:18 24:18,20 25:9 45:13 63:8,9 64:6,28 65:4 70:24 116:26 117:2 121:22
mattered 117:2 117:3
matters 65:2
may 6:14,15 10:2,12,22,27 11:21 14:28 18:15 24:22 31:18 48:5 111:9 112:27 114:14 117:23 118:3 120:17 122:6 123:3,7 125:11
maybe 13:19 14:24 17:2 18:6 24:17,26 25:8 26:23 33:12 35:3 37:7 42:18 43:16,25 44:15,18 59:17 61:6 62:5 84:11 100:6 102:27 104:26 114:12 118:8 119:9 124:8
meal 60:10 61:12 102:2
mean 16:6 26:20 36:20 41:12 46:19 46:21 58:3,22 63:16 69:24 77:20 78:2 80:5 83:9,14 83:25 92:27 93:26 97:26 107:20 109:13 112:17 114:13 114:16 115:26
meaning 39:12
means 47:9 58:3
meant 40:19 46:26 78:12
medical 79:9 123:2,9
medically 123:1
medium 45:2 48:28 49:7 115:26
mediums 63:13
meet 9:12,15 65:15
meeting 10:21 10:27 73:25 73:28 74:1 76:7
members 37:19
memories 26:10,11
memory 26:8 72:20
Men 91:23
men's 113:6
menthol 45:1 48:21
menthols 48:23 62:18
mention 67:3
mentioned 20:10 26:3 27:15 31:18 44:10 60:14 61:4 68:17,25 78:10,13 96:19 105:6 106:28 113:20 118:24 123:20 125:13
mentioning 95:13
merchandise 107:21 108:23 110:27 111:5 111:18,23
merits 95:21
message 67:26 69:15 84:2
messages 67:9 67:23
met 9:23 10:3 104:11
metal 41:17
middle 15:9,12 15:15,16 30:24 31:2,6 31:19 32:1 72:28 73:4,6 76:21 77:28 112:8
middle-school 76:10
might 6:24 21:22 23:18 23:25 31:4 35:3 39:9 40:22 43:10 44:1,2 47:22 53:8,20 54:12 56:1,4 60:21 61:11 62:8,11 62:13,16,26 64:14 80:13 85:12 86:28 88:26 95:4 98:9 100:8 102:8 104:24 108:2 109:21 111:20 113:11 113:11 114:17 114:20 119:25 125:1,17
Mighty 84:11
Mike 75:11
mildly 52:11
Miles 108:23
mind 48:10 63:11 70:24 70:25 87:7 99:13 114:26
mine 19:6 108:17 112:22 119:25
minor 32:6
minors 32:11 32:18
minutes 11:26 12:9
misinterpreting 26:24
misleading 108:28 109:2 109:6,8,11 110:13 124:18 125:6
miss 6:24
Missouri 2:15
mocked 91:15 95:4,24 109:8
mocking 90:19 91:19,21 92:6 92:25 95:6,12
mocks 96:15
mom 8:12,14 25:6,10 26:8 27:16 28:1,15 29:3 31:25 33:17 65:28 66:13 67:20 67:27 68:1 69:5,17 70:15 70:16,18,22 70:26 71:3,11 71:21,25 85:21 105:5 120:8
mom's 8:9 18:14 71:15
monetary 51:25
money 55:11,19
monoxide 91:4 91:6
month 16:13 123:26
months 9:27
mood 101:19
MORAN 2:19
more 20:4,6,13 22:10,14,16 22:20 23:6,25 24:18 27:21 29:26 30:28 31:1,3,4,5 34:15,20 35:18,19 38:24 39:11 39:11,27,28 40:2,16,23,27 42:24,27 45:3 45:4 47:9 48:28 49:1,5 49:24 50:1,17 50:25,27 51:1 51:4,5,7,13,16 51:20,27,28 52:3 54:3,8,12 57:26 58:15 59:7,8,8,8,19 59:19 60:2 62:17 68:6 69:4 73:22,25 79:3 83:25 90:2 93:26 94:24 96:20 98:4 99:22 100:3 102:10 102:28 106:26 113:12,12,12 114:27 115:8 115:18 118:9 124:8,9
mornings 82:20
morris 1:12 2:10 94:10,23
MORROW 1:8
most 20:1 25:10 27:23 43:14 63:2 77:8 82:8 84:10 85:5 98:6,25,26 102:1
Mostly 51:25
mother 18:18 26:1,24 69:1,8 85:23 112:9 117:21
mother's 7:16
mountains 37:11,14
mouth 23:14,15 24:10 47:18 47:23 48:1,2 60:26 82:10
move 50:8 96:10
moved 15:21 26:19,21,27 27:24
moving 15:18
much 13:13 24:13,13 31:8 39:18 52:22 53:13 54:9 55:20 57:24 61:23 62:4 68:25 69:3 71:26 74:25 75:25 76:8 77:2 78:4 82:2 85:3,6,18 93:26 95:5,8 97:7 98:3 99:4 113:27 120:17 120:23,24 124:21,21 125:18,19
Muirlands 15:9 15:12
mumble 6:25
myself 16:12 22:19 23:1 40:13 64:11 64:14 69:20 80:8 102:11 103:20

N

N 4:1
name 5:9 10:8 11:11 47:22 49:3 74:28 112:10 115:24 115:27 127:19
names 38:10 41:18
natural 61:7,10
nature 21:14 31:11 38:18 51:1 54:13 66:22 67:25 84:13 111:17 123:28 124:18 124:26
near 121:14
necessarily 67:12 110:15
necessary 127:16,17
need 34:20 56:18 61:14 61:14 64:12 101:9 104:7,7
needed 13:25 13:26 14:11 97:17 120:7 121:25
needs 84:20
negative 124:4
NEMEROVSKI 3:11
nervous 101:17
never 14:26 18:9 21:28 45:23 52:27 56:12 61:2 71:15,23,24 71:28 72:11 76:19 78:2,4,4 78:5 79:6 86:18 91:4,11 91:12 96:24 97:10 104:11 118:23 120:4 121:28
new 117:15
next 5:27 35:2 42:19 63:6 99:17 107:3 109:9
Nic-a-Patch 119:15
nice 113:17
NICOLE 1:7
Nicorette 118:2 118:7,16,28 119:2,15 123:12
nicotine 39:17 60:11 64:13 65:8 97:17,20 99:9 101:4,9 102:5,7,8,13 102:15,28 104:4,8,10 110:7 123:17
night 9:19,20 12:7,9,13
nine 8:23,27 9:7 14:18,19 26:26 28:22
nod 5:28
nods 6:2
non-smoking 76:11,11
none 4:8 19:4 38:2
nonresponsive 96:11
NOONAN 3:4
Norm 9:16 113:19
Norm's 13:6
normal 18:3
norman 2:8 128:14
Northern 37:1
not-light 49:10
nothing 11:11 19:27 25:21 31:11 38:27 49:8 63:4 80:5 87:7 92:26 95:22 96:18
notice 46:8 125:18
number 31:10 66:27
numbered 128:10
numerous 29:17 105:18 118:6

O

oath 127:15
object 6:14 88:25
objection 89:1

83939367

obtain 123:10
obtaining 107:21
obvious 84:15
obviously 30:16 41:20 49:18 52:8 55:12 58:12 60:27 65:22 80:17 95:10 107:13 111:23 112:18 115:26 117:3 119:27 120:8 120:11 121:12
occasion 14:6 14:22 17:6,28 18:4,9 19:12 19:18 20:18 21:25 22:5 24:15 29:24 38:22 50:23 51:23 52:18 66:4,12 86:24 96:20 105:7 106:7,15,21
occasional 81:19
occasionally 121:5
occasions 20:21 29:16,17,19 52:13 69:12 105:16 107:17 111:15
occurrences 98:6
occurring 105:28
off 13:24 14:2,3 14:5 32:3 33:2 33:3 45:15 51:25 52:28 55:19 60:7 63:15,18 93:15 94:5 96:3,4 100:9 124:12
off-the-wall 107:7
offer 43:28
offered 62:11
office 10:7 13:6
often 31:1,3 51:20 53:1 76:24 121:7
Oh 9:1 33:18 41:11 110:15 123:20
okay 5:25 6:8 6:21,22,26 10:20 11:21 13:5,13 15:23 16:4,19 17:5 22:3 26:22 30:1 33:18 34:25 35:4,25 36:16,27 37:11,13 38:20 39:20 39:26 40:8,21 44:24 51:15 54:5 64:16 70:8 71:2,17 73:14 74:12 77:18 78:9 80:21 84:6 85:22 87:2,27 88:8 89:3 91:10 92:14 93:1 95:12 98:9,14,27 102:14 103:3 105:19 108:24 110:15 112:11 113:28 114:8 119:23
old 8:23 16:7 17:16 27:17 62:2 66:24 90:4 113:21
older 31:6
on-campus 123:14
once 9:27 53:5 54:10 55:11 57:9 58:17 60:1,2 66:9 68:6,7 71:10 71:12 97:4,6,9 100:6 113:23 119:5
one 2:13 7:9 9:7 14:24 17:9,20 18:21,23 19:6 21:24,28 22:1 22:2,5 23:4,5 24:26 25:12 25:15 27:15 29:23 33:10 33:11,27 34:12,13,14 35:20,23,25 38:14 40:13 44:2,3 45:14 47:25 51:11 51:28 56:18 56:20 61:10 61:11,24 62:8 63:15 68:13 71:24 73:22 73:27 74:14 75:10,11 77:9 78:3,21 79:7 81:18 82:8,13 84:25 87:5 88:22 90:2,7,8 95:17 96:20 97:22,27 106:1,26 107:25 108:2 108:4 109:21 109:26 110:1 115:10 116:4 117:1,26 121:11,13 122:6,25 123:21 124:5 124:7
ones 18:3 49:4 55:7 82:27 84:4 91:27 110:3
only 28:4,6 74:20 82:13 89:13 94:16 113:10,27 117:26 124:6
opinion 14:15
opportunity 56:19
opposed 6:10 22:5 45:18 48:26 53:2 63:15,17
opposite 69:3 92:26
oral 89:8
order 76:14
organize 77:28
organized 74:12
original 126:11 126:15,19,26 126:27 127:1 128:13,17
originally 25:1 102:12 106:2
OSTROFF 2:4
other 5:24 9:9 10:17 20:5,13 20:24 21:3,12 21:20 31:21 33:23 37:19 38:4,22 43:13 43:16,18,21 43:23 46:10 51:6,21 52:13 55:3,4,23,26 56:4,11 62:1 62:22 71:9 72:25 74:21 74:23,26 75:8 76:25 77:1 79:7,10 80:12 80:27 85:12 85:13 87:5 88:26,27 89:18 93:12 95:17 96:17 97:21 106:21 107:1,19 109:9 110:27 112:12 119:11 119:19 123:1 124:6
others 41:18
otherwise 23:14 85:18 85:28 103:9
out 9:9 19:1,28 20:11,12 21:6 21:15 23:7,13 23:15 24:10 24:28 25:22 33:21,22 34:25,27 38:27 48:20 59:7 60:26 65:22 66:2 71:24 72:8 76:2 77:26 79:3,9,28 80:5 82:9 84:26,27 86:8 91:17 92:12 103:27 104:8 105:5 106:1,20 107:4,13,15 113:14 119:17 123:21 125:14
outdoor-type 37:14
outside 106:8 106:11,24,28 107:2
over 5:24 8:13 11:13 42:18 56:21,22 58:22 59:21 60:4 78:15 83:14,14 89:20 107:9 108:10 122:16 123:25 124:21
overall 117:4
overlook 71:8
overlooked 93:24
own 40:10,16 40:19 45:18 49:14 108:11

P

P 3:8
P.M 127:10
pack 17:9 18:22 18:27 19:1 20:23 21:10 22:4,13,25 23:7 25:1,14 32:4,5 33:6,14 34:10,25,26 34:27 35:2,5 35:15,16,17 35:19,19 39:2 39:2 42:19,25 43:10,17 46:16 54:8,27 55:18 58:15 58:22,25 59:9 59:14,27,27 59:28 60:3 88:4 90:6 93:7 103:21
package 10:28 11:10,19 47:23 92:1 105:9 106:14 111:14
packaged 46:23 46:25 47:15 115:8,27 116:1
packages 89:21 89:27 90:3 92:15,20 106:18
packaging 115:15
packet 10:18,20 106:22
packs 18:14,17 18:18 28:7,9 45:6 51:12 55:6 95:11 105:21 106:16 106:17,26 107:26,28 111:1,22
page 4:2 96:1
pages 128:10
pain 61:26
palm 114:15
pamphlets 76:6 77:12 125:14
par 123:8
parent's 7:15
parents 52:7
Parliament 44:28 83:24
Parliaments 44:19 56:2,2
part 75:4,7,17 78:11 79:26 80:7 98:6 102:1 115:25 116:22 121:26
participate 75:1 79:15,23
participated 74:19 107:19 108:6 110:26 111:11,16 124:15
particular 12:15 19:28 21:11,19 22:3 36:9 41:22 110:1
parties 19:14 21:25 43:28 51:5,12
party 22:5 51:6 51:19 64:5 105:10 106:9 106:12 107:7 126:13
passed 106:19 125:15
passing 107:15
past 42:12 71:8 78:3
patch 119:11
patients 22:26
pay 51:14,26,26 90:10 93:9,14 95:5 111:11
pays 90:8
PE 78:19,20 79:4,5,9,14,26 79:28
peachy 86:20
peers 40:5,9,15 40:18
penalty 126:11 127:4,14 128:16
pens 111:20
Penthouse 112:14
people 19:9 20:24 21:12 24:3 33:23,27 38:2 39:12,28 40:10,19,23 40:24,27 41:5 41:17,25 43:28 47:6,8 48:10 49:2 51:6,21,25 54:17 65:6,7 65:21,24 67:10,25 70:9 70:10,13,19 72:25 74:26 77:10 79:7,22 81:15 84:3 86:23,25,27 87:11,18,25 90:21 92:12 92:13,25 96:8 99:2,5,6 105:23 120:9 122:2
Per 41:11
perceived 46:1 54:16 58:7 62:7 67:17
percent 117:25
perfectly 6:15
perform 53:27
performance 53:17,24,27
performing 45:26
period 28:18 30:2 36:2 43:1 43:11,19 44:24 45:7,16 45:21 49:13

83939368

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97:1 98:14,23 100:4,20 112:5 120:27 126:19
periodically 97:5
periods 59:24 118:8
perjury 126:11 127:5,15 128:16
person 10:8 13:20 48:4,13 60:22 86:18 106:17 117:14
person's 21:23
personally 91:16
pharmacy 123:14
philip 1:12 2:10 94:10,23
phone 10:5
physical 78:19 78:28 79:11 79:16,23
physically 100:22
physician 100:23 105:1
pick 55:9,18 113:27
picked 18:15 56:21
picture 113:16 122:24
pictures 10:24 11:5,6 44:6 58:2 80:15 109:15 113:2 114:3
piece 119:5
Pines 15:16
pissed 13:24 14:2,3,5
pisses 60:7
place 2:13 13:10,15 19:21 60:8 76:14 79:21 80:19 113:3 116:19 125:11
placed 90:6
places 20:9
placing 48:10
plaintiffs 1:10 2:3
planning 91:1
platters 111:6
play 52:19,21
Playboy 112:14
player 97:26
players 98:2
playing 18:7 53:18 82:17
plays 92:26
Plaza 3:6
please 5:9 6:18 7:3 92:18
plus 21:13 116:9 120:11
point 7:13 18:21,23,24 22:10 29:28 39:1,19 45:3 50:19 54:5,21 54:23 57:1 60:3 61:23 70:14,22 72:13 83:2,5 92:1 104:26 110:19 117:6
pop 25:22
pops 80:5 87:7
portray 85:8,10 102:12 103:2 109:13,15
portrayed 84:2 103:24 104:2 124:25
portraying 124:28
positive 69:4,6 69:22,23 78:8 81:10 84:3 85:19 93:17 93:21 109:18 113:13,16 124:24,28
positives 125:3
possessed 18:9
possibility 34:14 69:28 114:16
possible 36:10
Possibly 19:15
POST 3:4
potentially 46:9 52:4,10
pound 83:14
practice 53:5,7 53:8,9,11,12 53:15 79:6,14 79:14,14
practiced 25:4
practices 125:6
practicing 23:23 24:3 53:5
predominantly 107:28
preference 62:15
prepare 9:13 76:14
prepared 79:24
preparing 79:8
preppie 44:20
present 3:16 35:22 37:22 59:26 91:6 121:9
presentation 76:10,15,16 80:2
presented 23:28 124:27
presently 7:3 7:17,23 15:25 60:28 101:2 102:15 103:11
pretty 39:18 52:22 54:9 62:3 85:3 113:26
previous 98:13
previously 89:18 96:17 96:19
print 89:14 90:28
printed 87:28 89:7,10
prior 9:24 10:21 13:8 21:18 22:1 98:16,19 111:22 115:4 123:26 124:7
pro 125:22
Pro-cigarette 83:20
pro-smoking 89:13
probably 14:15 24:12 25:14 25:20 29:4,17 33:10 35:11 37:26 38:1 39:6 41:27 50:6 51:24 54:3 60:4,11 66:3,8,11 72:1 80:20 81:10 82:26 110:7 122:13 125:2
problem 6:12 7:2 55:20 57:9 70:27 104:20
problems 53:20 53:23 91:3
proceedings 7:14 18:25 128:7,12
process 17:24
producing 126:22
productive 54:3
professional 123:10
program 77:28
project 76:26
prominent 82:8 84:10
promise 83:1
promotion 111:10
promotional 88:28 107:19 110:24 111:17 111:23
promotionals 108:19
promotions 108:7
prompted 22:4
provided 38:16
provider 123:10
provoke 36:6
public 23:24
purchased 16:21 17:6,14 20:23 45:7 54:24 90:4
purchasing 49:14
purpose 38:12 128:15
push 105:24
put 22:15 55:10 55:19 56:21 56:25 57:20 73:9 76:9 80:6 89:26 90:19 90:20,22 91:27 93:15 94:5,12,22 95:6,7,26 98:5 102:20 103:4 103:25 112:15
puts 119:17
putting 52:11 54:28 92:14 92:19 93:3

Q

question 6:4,16 6:17,19 15:27 88:7 114:9
questions 6:14 50:7 123:19 125:26 127:15
quit 18:22 50:6 59:17,21,24 60:1 90:16 96:21,25 97:8 97:14 98:12 98:16,20 99:17,18 100:1,21 117:22,24 118:1,4,17,18 118:20,24 119:7,20,26 119:28 121:1 122:9,11,14 123:10
quite 78:26 82:18 115:26
quitting 90:11 90:15,20 94:14 96:20

R

RJ 3:10
RABKIN 3:11
radio-active 95:16
rally 76:12,14
ran 34:25 38:5
rather 58:5,10 63:13 78:6 81:9 85:9,20 96:9 97:19 99:3 101:5 117:18 118:23 125:23
reached 35:12
read 12:19 65:21 88:12 93:19 112:13 112:17,18 125:16 127:16 128:15
reading 12:16 12:25 73:7
ready 55:9
real 86:22
realization 32:28 71:6,19 71:27 122:21 122:22
realize 32:5 39:17 45:22 46:5 53:20 72:22,23,24 90:7,27 104:4
realized 32:8 45:26 66:4,7 102:9 122:10
really 5:27 6:3 19:16 28:11 29:25 30:9 34:20 45:12 45:23 53:19 55:27 61:13 62:15 64:1 68:25 71:23 75:20,22 76:27 77:25 79:27 81:27 82:13 96:24 97:10 98:3,28 124:7 125:11
reason 6:20 20:14 21:10 28:4,6 40:21 48:25 56:4 62:4 63:19,21 79:10,10 88:13 97:13 101:11 116:3 116:18
reasons 94:21 112:28
rebates 107:27 108:21
recall 10:8 13:13 15:20 16:13,27 19:5 19:25 23:17 24:14 25:21 27:17 29:19 33:7 34:3 36:7 36:9,28 37:1 37:28 38:23 44:27 45:3,4,6 49:28 50:2,3,6 53:23 57:16 66:12,24 67:28 71:18 73:1,2,5,7 74:13,18,21 75:3 77:1,7,17 78:14,14,25 80:1,8,10,16 80:25 81:8 82:19 83:18 84:14 87:6,27 89:3,24 90:2 93:5,28 100:24 105:7 105:27 108:3 116:4 117:27 118:12 124:10 124:19,21 125:5
recalled 78:13 91:11,12 124:22
receipt 126:19
receive 10:11 102:16 108:23
received 10:22 11:24 12:8 85:12 105:8 105:16,21,23 106:14,22 111:1
receiving 67:9 110:26
recently 82:14 123:23,23
Recess 72:15 110:21
recognize 46:13 47:22
recognized 98:3
recollection 43:19 73:11 86:5 114:19 114:21,24
recollections 38:25
recommend 21:18
record 5:10,23

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http://legacy.library.ucsf.edu/tid/ugr07a00/pdf
Downloaded from www.industrydocuments.ucsf.edu/docs/rlxl0001

6:5 33:2,3
recount 83:17 84:8 105:19
recounted 86:7
red 115:5,9,9
Reds 114:5
reduce 90:13 90:17
reduces 90:11 90:15 94:14
reference 67:5
referred 126:2
regular 19:5 63:4 123:14
regularly 17:24 100:6 112:18 112:19,22,23
regularness 122:8
reinforced 84:5
reiterate 68:16
relax 53:9,11 61:5
relaxation 61:4
relaxes 61:13 61:14
relevant 113:13
relieve 126:8
remember 8:19 10:17 11:11 14:27 16:1 17:1 20:14,17 21:9 24:13,28 26:7,15,17,18 28:6 30:22 31:4,24 34:1 35:11,27 38:26,26 43:24 50:9,16 50:17,20 53:22 72:18 73:9,11,27 74:25 76:5,8 77:8,24 78:23 78:26 81:11 82:7,13,14,25 84:7,21,23,25 85:4,5,6 93:10 93:11 95:24 101:1 104:23 105:20 106:21 107:1 108:1 114:3,9,18 118:7,8,16 120:4 124:2,7 124:12 125:2 125:10
remembered 125:22
remembering 15:28
remind 105:7
repeat 92:18
rephrase 6:21
reported 1:21 128:6
reporter 5:20 6:2 126:9
reports 79:8,24
represent 89:25
representation 89:8
requirements 53:4,7
residence 7:7 8:3
response 96:11
responsibility 126:9
responsible 126:14,21
rest 121:23
result 80:12
return 126:17 126:20
review 126:16
REYNOLDS 3:10
RICE 3:11
right 5:21 22:24 30:5 34:27 35:2 39:24 46:4 50:14 54:1,19 55:18,19 56:25 66:26 69:9,14 72:17 83:17 88:17 88:21 89:15 93:6 94:7 95:26 96:7,18 99:22 101:7 102:22 106:4 107:3 109:9 110:20 111:26 113:22 114:25 122:25
risk 90:12,16 90:17 94:14
robust 115:27
role 44:16 101:16
romantic 84:22
room 5:22
rotating 89:26
rough 49:6 97:27
rougher 97:25
roughly 9:25 10:3
route 85:19
RPR 1:22 128:5 128:24
rugged 48:28 49:1
rule 5:27
rules 5:20

S

S 4:7
sack 106:25
safe 117:5
SAIA 2:22 4:3 5:8 18:26 33:4 72:16 89:2 94:18 96:14 110:20,22 125:25 126:1
Salem 84:21
same 14:1 15:5 17:8,23 18:27 25:1,2 30:23 35:20,22 54:7 59:13 61:15 64:11,13 67:8 75:4,14,15 82:27 94:28 96:25 99:1,11 100:18 101:11 112:20 113:7 126:26
samples 105:17 107:18
san 1:2,20 2:7 3:7,14 5:1 7:12 8:8,15,20 8:22,24,28 9:1 15:18 16:25 26:27 27:24 55:6 128:3,8,9
sandy 47:21
sat 71:10 76:28
satisfaction 60:11,11 61:3 61:20 110:5,6
satisfying 61:15
Saturday 82:20
Saturday-mor... 82:16
saw 12:28 19:27 20:1,4,6 20:13,18,27 39:12 40:3 42:7 44:21 47:21,23,27 48:12 50:27 56:13 57:11 57:22 70:3 78:7 83:2,22 83:25,27 84:7 84:28 86:6 88:15,18,23 89:9,11 100:16 107:15 114:27 115:12 122:23 123:22
saying 34:9 39:21 50:4 56:18 67:23 67:27 71:21 78:6 83:10 86:7 93:28 95:3 104:4 110:11 118:17 123:9
says 85:9,9 91:23 95:18
scare 80:15
scared 38:1 68:26 82:26
school 7:23,25 7:28 8:4 15:2 15:8,9,13,15 15:16,18 27:22 29:20 30:11,14,24 30:24 31:2,3,6 31:6,19 32:1,1 39:8,9,23,24 39:27 40:3,9 40:23 41:4,14 42:11,19,23 52:19,24,25 54:10 58:23 59:1,5,7,10 67:10,25 72:21,28,28 73:4,6,12,18 73:23 74:8,9 74:16,20 78:11 79:22 80:2,8 82:6 96:24 97:7 106:3 107:25 112:8,8,20 118:13,20 120:13 123:14 123:23,24,25 124:7,11
schools 74:21 76:22 78:1
screwed 86:18
scriptures 38:17
seat 52:15,16
second 9:27 10:12 12:22 15:22 27:26 122:13,19
SEDGWICK 2:19
see 23:21 36:6 51:10 55:3 58:28 59:3 60:21 66:18 66:19,28 69:3 70:3 82:3 85:7 86:23 92:27 93:10,12 108:26 113:28 117:6 118:26 122:26 125:20
seeing 39:11 43:22 44:4 47:17,26 48:2 48:14 59:7,8 59:10 65:24 66:20 69:5 73:7,10 76:5 82:20 83:18 85:20 86:13 86:15 89:3,24 90:2 93:5,10 93:11 100:11 100:15 108:9 114:3,10,16 114:22 115:19 117:28 124:2 124:8,10
seeking 22:11
seem 95:22 117:17
seemed 17:22 21:8,15 44:18
seems 25:22 109:22 116:1 116:5
seen 6:9 19:5,9 20:24 21:12 21:13,22 23:28 24:1 34:21,24 41:26 44:16 47:5,15 52:6 54:16 56:9 57:17 63:1 66:9 83:5 86:18 89:22 89:28,28 91:28 98:1,6 113:14,26 117:15 123:26 124:5
segments 82:21
self 17:25 18:5 18:19
self-realization 72:6
sell 32:22
seminar 78:1 124:14 125:8
sending 107:20
senior 54:6,20 58:17
sensation 99:1 99:7
sense 61:19
sent 111:4,8 126:12
separated 107:12
september 1:18 5:1 128:7,20
serious 90:12 90:16,17 95:26 122:20
serious-enough 121:1
seriously 90:13 91:13,15 92:4 96:5,6 104:23
setting 69:26 76:28
Seventh 2:6 3:13
several 62:24
severe 121:2 123:28
shadow 114:12 114:16,22
shake 5:28
shape 22:9 102:26 109:22
Sharon 75:10 75:23,24,24 75:28
she'd 29:6 117:26
shelter 95:16
shifted 57:5
SHOOK 2:12
shoot 44:25 114:8
shooting 117:9
shopkeeper 50:3
shops 56:22
Shoreline 7:8 7:10 8:9,17
shorter 53:25
shorthand 128:6
shortly 26:28 28:20 35:5
shot 25:11
show 39:18,26 40:28 55:10 55:13,15 89:17 109:6 109:15 116:21
showed 57:6 66:22 71:9 80:14 81:21 102:25
shown 34:22 46:21,24 88:20 103:2
shows 82:4,21 86:6 102:27
side 93:15 94:5 95:10
sides 93:19
sign 126:10,16 128:15
signed 126:25 127:3,4
silent 82:1
similar 119:10
Similarly 1:9
simply 29:4 37:24 39:10 41:2 43:6 44:2 46:15,25 52:5 52:16 53:4,15 54:11,26 55:17 59:6,18 81:8 83:13 91:2
since 7:27 8:23 12:3 14:19

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26:6 46:4
59:12 62:1,25
64:19,21
69:23 71:14
87:8 89:20
90:4 91:13
97:2 118:6
122:17 123:24
123:24
single-day 77:4
sit 20:17 53:22
86:5
sitting 5:21
43:9 54:27
55:4,24 56:12
71:19
Situated 1:9
six 78:26
sixth 27:27
skinny 47:24
slide 86:6
slides 76:5
77:12 80:14
86:13
slightly 42:22
42:24
slim 115:8
116:1
Slims 45:1
64:16,24 65:5
65:15,23
83:24 84:20
slogan 84:19
109:21
slogans 44:6
113:3
slotting 88:28
small 93:25
94:6 95:25
96:1
smaller 18:2
46:4
smell 23:12,13
28:3,5,13
30:11 60:12
60:14,23
smelling 60:26
smoke 15:25
17:22 18:28
19:3,6 21:17
23:13,15 26:4
26:6 27:9,13
28:17 29:26
30:1,7,8,12,27
32:12,19,20
33:8,15,21
35:13 36:6
37:22 39:13
40:15 41:2
42:16,28
48:18 50:24
50:26,28 51:1
51:4,7,13,16
51:20,27,28
52:4,6,14,15
53:1,11 57:24
58:1,6,7,9,10
58:13,15
59:14 60:22
61:27 62:3,4
64:1 65:7,10
65:23,28 67:8
67:24 86:28
87:13,15 88:5
91:2,4 94:1,12
96:4,20 98:23
99:5 100:17
101:22 103:12
103:17,28
104:25 109:23
116:12 117:3
117:14 120:3
120:5,8,12
121:4,16,18
121:19,28
122:7,20,25
124:26 125:21
smoked 14:14
16:2,5 19:25
23:10 24:2
25:25 26:3,16
28:10 33:23
33:25,27 34:2
34:4,13 36:3
36:11 38:3
41:23,26,27
42:3,4 43:21
44:21 48:16
48:25 49:4,5
53:14 54:1
55:16 56:3
57:7,7,23 59:3
59:11 66:4
70:28 81:15
81:17 86:23
104:27 113:24
113:25 116:7
120:17,23,24
121:5 122:6
122:19,19
smoker 17:26
19:7,8 21:17
22:18 26:9
27:5 34:22
40:6,13 41:1
52:6,6 56:27
57:3,6,14,15
82:1 103:7
smokers 19:10
24:1 40:6,10
smokes 84:21
118:10 122:8
smoking 13:28
14:21,26
15:24 17:19
17:24 19:10
19:19,23
20:18,19,24
21:12 22:1,8
23:11,25,26
25:28 26:7,11
26:13,14
27:16 28:2,16
29:3,5,7,11,13
30:10,13 31:7
31:23 34:6
35:23 36:8
38:24 39:13
39:16,27 40:2
41:25,28 42:1
43:2,5 45:11
46:1,26,28
47:1,2,7,10
48:4,6,6,11,12
51:6,8,22 53:6
53:16,24 54:4
54:7 59:12,20
60:5,6,15,16
60:19,19,20
60:24 63:11
63:23 64:14
64:20,21 65:5
65:25 66:7,13
67:1,14,22
68:1,18,20
69:24 70:11
72:28 73:19
73:24 76:22
77:19,23
78:24 79:1,25
80:4,21 81:1
81:13 82:5,22
83:4,6 84:3
85:16 86:11
86:27 87:13
87:15,18,20
87:24 88:3
89:5 90:11,15
90:17,20,22
90:24 91:12
92:5,23 93:8
94:9,14,22
95:2 96:21
97:5,8,14,19
97:21,24
98:21,27
99:14,16,17
99:18,26
100:10,14,21
102:27 103:6
103:9,15,20
103:22,26
104:5,13,18
104:22 109:16
109:18 110:5
110:6 113:4
114:28 116:18
116:24 117:3
117:7,8,9,22
118:1,7,21
119:7,12,13
119:18,20,26
119:28 120:10
120:16,26
121:6,10
122:23,24
123:3,5,11
124:3,4 125:7
125:7,23
smooth 43:26
63:27 84:11
84:18 101:15
109:20,24
sociable 101:13
social 19:15,17
22:9,14,16,19
40:5 51:28
101:26 103:19
105:22
socialize 22:21
22:22 24:4
40:11,25
41:23 42:4
100:17
socialized
19:22
socializing
101:16,22
Socially 103:20
soft 6:24
sold 37:25
solely 57:10
solid 21:16
some 10:23
11:2 13:27
15:23 19:9
20:14 22:9,10
34:16,28 37:1
43:21 53:10
53:13 56:11
57:1 60:10,21
61:23 72:25
79:9 80:12
84:1,1,19
89:18 91:28
101:23 102:26
105:8 107:5
109:22 114:13
119:24 121:25
122:28 123:1
123:15
somebody
47:17 48:1,2
60:15 64:5,27
65:14
someone 10:7
13:6 16:11
23:14 34:12
48:12 49:26
55:28 56:1
60:19,20,26
63:16,18,23
72:22 94:3,12
101:18,20
109:28 120:6
122:5
someplace 74:6
something 6:25
13:25 14:11
14:12 45:28
46:7 47:16
48:7 51:3 58:3
61:17,21
62:27 73:15
84:22 85:24
87:1 93:27
97:15,17
101:12,17
102:2 103:7
104:12 108:16
108:18 109:8
111:9,21
113:16 114:12
114:17 117:13
119:17 122:24
123:13,16,27
sometime 72:1
72:20 121:14
121:21
sometimes
111:19 120:25
121:15
somewhat
23:15 55:14
57:4 100:17
somewhere
11:23 27:26
28:28 31:20
36:28 41:6
49:19 50:8,10
58:24 74:5
112:8
soon 25:22
sophisticated
49:5
sophomore
96:28 99:20
99:21,23
100:2,21
122:15
sorry 94:16
98:15 113:18
123:5
sort 25:3 105:8
111:6 119:24
sorts 41:18
sought 123:2
South 2:20
span 59:23
speak 6:23
80:28
speaker 80:8
speakers 77:13
77:16 80:3,14
80:16,26
speaking 14:16
67:18
specific 38:25
43:19 86:4
102:20 107:1
114:19,24,26
specifically
44:26 80:25
83:18 89:24
speculating
96:12
speech 76:15,17
120:2,5 121:2
speeches 80:8
spell 5:9
spend 12:12
100:25
spitting 97:22
spoke 13:11
spoken 5:18
6:24 29:13
88:11 112:24
sponsored 51:3
51:11 105:10
105:10
sport 79:6,16
sports 52:19
53:2,18 79:3
111:28 112:12
SS 128:2
st 1:21 128:5,23
stage 78:3
stand 55:19
stands 19:28
84:26,27
start 39:6 59:25
61:26 74:10
97:9 99:22,23
104:8
started 18:28
24:16 29:23
34:9 39:22,27
39:28 40:2,9
43:2 59:4,6,16
60:2 62:2
64:19,21
71:14,18
80:23 91:12
96:22 99:14
100:10 102:25
103:6,9,10
116:18,24
123:24
starting 117:15
state 1:1 128:1
128:9
stated 64:23
statement 89:8
statements
87:28 89:10
states 5:9
stating 25:27
stationed
107:11
stay 54:7
stayed 37:19
59:13
stepped 58:18
58:21,24
stepping 59:4
stereotype
97:27
STEVEN 2:22
stew 95:18
stick 21:15

83939371

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sticking 20:10 20:12
sticks 38:27
still 8:19 17:3 35:20 39:16 39:23 42:18 46:13 48:21 53:27 58:8,10 60:12,21 61:15,28,28 65:2,5,26 75:26 96:8 97:16,19 99:15 106:2 107:15 110:4 110:4,11 112:28 113:1 113:8 116:9 121:21 122:26
stipulated 127:7,8,9 128:13
stipulation 125:28 126:2 126:5,7
stop 27:16 28:2 28:8,12,13 92:4 99:24 119:13,17 120:7,7,11,16 120:26 121:1 121:27 122:23
stopped 13:27 53:6 122:2
store 20:27 37:25 54:24 55:3,22 56:10
storekeeper 32:22
stores 55:7,8 56:17,19 108:20
straight 39:20 84:18 109:20 109:24
stranger 64:5
strangers 45:12 45:19
street 1:19 2:14 2:20 17:2 50:15 105:24 128:8
Streets 16:28
stress 61:25
stressed 30:21 61:17,21
strike 96:10 98:15 117:20
struck 12:26 13:1
stuck 21:6 56:5
student 57:5 80:28
students 41:7,8 41:10 74:18 74:23,26,27 75:9 76:11,25
stuff 20:7 37:15 38:19,20 53:5 67:11 73:10 75:26 82:10 89:13 108:9 110:28 112:21
stylings 114:22
subdivisions 41:20
subject 62:17
subjected 34:22 46:17 49:2 64:3
subscribe 111:24 112:9 112:19 127:18
subscribed 111:28 112:2 112:3
subscribing 111:26
substantially 41:15
sucking 23:19
suffered 27:8 27:12
suggest 120:16
Suite 1:19 3:6 128:8
summer 7:19 10:22 36:10 36:12,18,19 39:22 54:19 58:17,23 59:5 99:23 120:21
SUPERIOR 1:1
supermarket 105:24
supposed 21:17 76:18
sure 5:18 21:5 23:6 25:3,5,6 25:18 36:4,10 37:26 42:10 77:20 78:25 81:6 82:17 83:25 92:19 93:27 118:11 124:22
surgeon 89:19 92:7,11,16,21 93:2,6 94:2,3 94:26 95:1,9 95:20,24 96:16
sway 117:17
SWEAT 3:4
switch 54:18 115:3,14 116:14
switched 54:13 55:14 56:8 57:8 62:25
switching 55:16
SWORN 5:5
symbolized 46:18

T

T 4:7
T-shirts 107:21 108:15 111:19
take 6:27 22:17 25:27 26:23 33:5 64:9 65:20 72:14 90:14,18 96:4 96:6 100:17 104:3 110:18 112:14 120:2
taken 1:18,19 5:15 72:15 80:18,22 91:14 92:3 96:5 110:21 113:11
takes 33:12
taking 5:21 44:16 59:23 73:1 101:16 126:20,21
talk 5:24 6:27 31:22 35:9 41:27 42:2,9 50:11 67:12 72:27 76:26 81:4,12,27 83:1 101:18 101:20 104:13 119:27 121:1
talked 13:8,12 14:21,23 25:20 67:13 67:16,20 77:9 77:13,22 78:9 79:7 80:11,26 81:3,7,20,21 82:4 88:28 104:17 109:4 110:25 111:15 124:14
talking 20:8 36:2 38:25 43:1,12 49:14 51:5 52:17 62:24 67:17 67:21 70:16 72:3,4,5,17 77:3 80:3 84:6 87:28 88:9,9 88:10 91:16 91:17 95:13 98:4 103:13 105:15 107:17 110:23 111:3 111:4 119:14 122:5 125:1
talks 31:10
tangent 32:3
taste 21:19,22 21:22 24:5,7 43:26 44:10 44:11,13,17 44:18 46:8,14 47:10 48:19 48:22 49:8,12 60:28 61:2 62:16,18,20 64:1,12 65:3,8 84:11,12 109:20,25,27 110:4,4,9
tastes 60:25 110:12
teacher 80:17
teachers 68:14 85:21,23 125:1
team 81:15
teams 52:24,25
tease 59:19
teased 99:25
teeth 86:19,23 86:27
television 82:3
tell 13:16 14:7 19:26 20:15 22:6 23:6 24:17 25:16 30:13,18 31:12,14,16 35:1 42:20 43:14 49:11 53:17,19 68:4 88:20 90:5 93:6 105:1 115:17
telling 30:12 70:15 88:5 117:28 125:21
tells 85:3 88:17 89:15
ten 11:26 12:9 33:12 37:7,20
tend 51:7 53:1
tended 50:24 50:26
tenth-grade 120:21
tents 37:17
term 19:7,8 40:18
termed 19:9 103:26
terms 28:27 46:17 82:23 107:26
testified 5:5 108:25 124:16
testifying 96:12
testimony 26:23
Texas 97:26
text 83:28 84:1 84:5,8 89:7
texts 125:13
Thank 112:16 125:27
their 38:10 44:6 47:23 79:8 82:9 95:7,11 120:9
theirs 44:4,5
themselves 1:8 11:9 67:13 80:11 94:23
THEREOF 127:18
thereto 127:16
they'd 96:4
thing 21:20 23:19 24:12 38:5 52:7 53:8 56:26 68:13 75:4 79:3 83:9 83:15 92:27 113:10,27
things 10:25 21:14 24:1 26:17 31:10 36:6 38:18 40:4 43:23 50:27,28 51:2 54:13 62:5 65:22 66:11 66:22 67:25 69:8,11 70:3 71:20 76:6 84:12 86:6,7 88:2,11,12 89:15 90:8 92:27 93:17 95:15 97:6 102:8 107:22 108:21 110:26 110:27 111:6 111:19 116:16 124:25 125:15 125:18,20
think 12:24 20:9,26 21:21 22:11 23:5,11 25:9,12 29:25 30:5,17 31:3,8 31:17,25,28 32:27 33:24 35:21 36:11 36:25 39:9,16 39:26 40:2,15 40:21 41:24 42:21,24 45:26 46:13 48:5,22 51:23 52:5 53:6 54:2 54:8 55:13,27 58:26 59:20 59:28 61:4,22 61:22 65:18 66:5 67:6 69:13,14 70:5 70:7 71:26,27 71:28 73:20 73:20 74:3,4 74:20 75:11 77:11 78:2,4 78:21 79:2 81:2 84:15,18 84:19,22,28 85:22,28 86:16,17 89:28 90:7 91:20 92:6 93:2 94:16 96:18,27 97:11,11 98:9 100:24 101:21 101:23 102:6 102:13,22 103:10,27 105:6 107:4,7 107:8,10,10 107:26,28 110:3,23 111:8,13,20 112:1,9 113:20 114:27 115:5 116:7 119:16 120:28 121:26 122:22 122:27 123:27 125:25 127:1
thinking 30:10 30:11 72:6 120:6
thinks 96:7
though 52:12 119:11
thought 19:7 21:24,28 22:2 22:7,15,18,20 22:23 23:12 23:14 24:9 41:1 42:6 43:7 44:5,15 45:28 46:7 48:5,16 51:10 56:2 59:3,11 62:28 66:21 68:28 69:12 71:7 72:12 78:3,4 85:26 86:13 86:15 91:13 94:18,25 98:7 116:9 117:18 121:6
thoughts 72:6 120:9
thousand 88:17
three 3:12 52:26 59:18 62:16 75:8 111:11 112:5

83939372

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throat 68:13
through 11:28 12:16,19,26 15:23 17:23 21:13 23:28 35:12,25 43:3 43:12 44:25 45:17,21 48:15 49:15 50:22 54:5,12 54:16 73:23 76:19 97:20 99:1 108:19 110:6 116:15 117:17 120:22 121:15 124:25 125:17
throughout 54:9 97:5
throw 18:23 55:11 94:26 95:22 96:7
throwing 68:12
thrown 91:21 95:10
thuggish 62:7 62:28
time 9:22 10:1 10:3,4,12,12 12:4 14:19 15:1,1 16:2,5 16:13 17:23 19:2 21:8,16 21:18 22:26 23:10,18 24:3 24:6,17 26:4,7 26:19,20,27 27:16,17,22 28:18,21 30:3 34:1,2,4 35:10 35:12 36:2 37:22 38:23 39:5,12 42:10 43:1,2,11,20 44:24 45:8,16 45:21,27 46:6 47:13 48:26 49:13 52:28 53:13 56:21 56:27 57:26 57:27 59:8,12 59:20,21 61:15 64:11 64:26 65:13 65:25 66:28 67:8 70:17 71:7 72:8,24 73:6,11 88:4 88:18,23 90:7 91:8 93:8 96:25 97:1 98:14,20,23 99:11 100:1,4 100:15,18,20 100:22,25 104:17,21,23 106:11 107:14 117:27 118:8 119:26 120:27 121:15 122:6 122:13,19,19 122:23 128:18
times 6:13 9:24 9:25 36:4,5 49:24 50:26 59:18 66:27 68:4,7 82:18 82:19 89:27 99:28 101:23 105:18 118:6 119:28 120:19 121:11
tired 53:8
tobacco 2:11 3:10 64:13 69:6 88:1,27 89:5 94:10 96:2,5,7,22,26 97:2,12,23 98:2 99:9 123:16,18 124:6
today 9:12,17 9:18,21 13:3 14:19 20:17 53:23 65:28 82:27 86:5 91:27 101:22 121:13,14,18 121:19,27
together 15:2 41:16,21 76:9 76:25,28
told 12:2 28:22 28:24 29:15 29:18 30:1,7 30:15,26,26 31:1,10 66:18 66:22 67:8 68:21,23 69:11,19 72:21 73:12 75:28 83:3 85:15,21 86:10,21 87:17 88:22 94:9 104:27 105:5 106:2 117:23 118:19 123:15
tomorrow 121:14
top 124:12
topic 14:28
Torrey 15:16
tough 48:6 99:12 115:10
tougher 57:8 97:26
towards 38:17 43:24 54:10 99:21,23 117:18
transcript 128:12
transcripts 126:7
travels 105:11
tray 108:16 111:21
trays 108:16 111:5,20
trees 37:14 114:15
trial 126:22 128:18
tricked 86:17 87:22
tricking 86:20
tried 18:21 19:1 23:2,5,6 24:22 25:7,8,9,25 26:4 27:16 33:10,16,24 36:25 43:15 43:25 44:1,2,2 45:3 46:11 56:12 59:17 64:24 66:8,18 66:23,28 67:2 67:27 80:21 82:1 96:19,24 97:4,8,18 98:12,13,16 98:17 99:18 99:24 110:2 119:13 122:13
trip 74:2,7,19 76:4,17,20,26 77:1,4,19,21 81:4 85:11 124:14 125:8
trouble 15:28
true 51:15 64:20 116:19 116:20 128:11
Trust 8:2
truth 86:16
try 5:24 6:23 17:19 21:26 23:20,21 24:25 28:1,7 32:25 33:1 44:11,21 49:19 50:10 62:11,13,27 80:15 92:4 96:21 100:7 118:10,17,27 119:2,6,8,11 119:20,28
trying 18:28 25:16,23 33:22 35:18 35:20 39:20 44:15,27 45:18 62:17 68:2,27 72:8 72:22 76:9 85:8,10 88:6 89:16 90:19 91:17 94:26 95:20 102:10 103:1,27 105:2 115:21 117:28 118:20 118:24 119:25 125:4
Tucson 8:7 9:11
turned 36:24 42:12 54:6,10 57:1,2 58:14 112:26
turning 48:9
TV 82:11,12 124:3
twice 66:9 68:7 100:6
two 9:24 20:14 20:16 22:12 24:26 25:12 25:15 33:11 33:11 35:3,20 35:23,25 47:2 59:17 62:16 68:7 69:12 75:8 95:23 98:25 100:3 102:7 107:25 108:1,4 111:10,11 112:5
type 6:2 19:15 21:19 22:16 29:27 37:8 38:15 43:18 52:13 54:17 57:3,16 60:10 60:21 62:6,7 84:19 101:26 105:22 107:19 109:1 121:25 122:26,28 123:9
types 44:22,26 45:2 46:15 54:11 105:20 117:11

U

uh-huh 5:26 6:1,11 7:20 8:6 11:1 12:1 60:17 66:16 79:18 108:12 118:14 122:16
uh-huhs 6:8
ultimately 58:23 76:9 97:20
unable 122:11
under 110:16 126:11 127:4 127:14,15 128:16
understand 6:6 6:17,19,20 72:3 76:20 117:6
understood 6:22 28:26
unhealthy 30:15,19,20 30:26 31:7,9
University 7:26 51:10 106:4
unless 18:6 21:21 47:15 47:20 52:1 55:28 61:23
until 24:15 25:14 26:11 35:12 39:6 56:7 59:28 66:11 72:1 82:14 91:13 118:18 128:18
untrue 12:27 13:1 86:8
untruthful 92:17,22,23 92:24 93:3
upcoming 24:23
upped 39:10,21 40:7
ups 52:3
urge 121:16,17 122:25,27,28
usage 39:10,22 40:7,22 58:18 58:24 59:22
use 35:28 65:15 66:5 67:19 119:19
used 9:3 22:21 39:11 40:18 96:25 118:2,7 118:9 126:26 126:28
using 19:8 40:18
usual 125:27
usually 50:8 63:5 82:17 105:22 107:3 107:11,25 114:2

V

v 1:11
variety 46:10
various 77:22
venue 57:22
version 11:17
versus 60:15
very 28:20 55:9 93:24 120:6 123:23
view 57:20 124:1
Virginia 44:28 64:16,24 65:5 65:15,22 83:24 84:20
visit 106:1
visited 51:9
visual 83:28 84:4 85:1

W

walk 50:14
walking 107:8
walks 107:10
want 6:18,27 28:10 35:10 39:13 50:28 51:4 54:3 58:6 58:8,9 61:13 61:14 63:22 63:26,28 65:10,24 67:24 69:5,8 72:2 85:17 86:3 91:2 93:16,19,20 93:20,22 95:11 96:2 97:16 99:27 100:18 101:8 101:17 104:2 105:4,12 113:1,18 116:22 120:8 120:10,12 121:1,3,18 125:20
wanted 14:8,12 17:19,22 22:13 23:21 24:4 28:13 32:24 33:1 34:15 39:12 39:14 40:3,11 40:12,13,15 40:25,28 41:23,26 42:8 44:7,11,17 52:27 56:1,9 56:27,27 57:2 57:24 58:12 65:7,18 66:28 69:9,21 76:17 78:5,7 80:6 81:9 87:23 97:9,19,21 99:15,27 100:16,16 102:11 116:15

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116:17 117:14
117:15,16
118:18,24
119:6 120:7
122:24 124:23
wanting 65:9
66:20 85:27
101:15
wants 69:5
warning 90:5
93:7 95:9,20
95:21,25 96:8
warnings 89:20
89:22,25,26
90:3,27 91:11
91:25,26,28
92:15,20,25
93:4,23 94:5
94:22,28
95:24 96:16
109:7
wasn't 17:23
19:20 23:19
25:6,10 28:24
30:9 32:26
33:17 35:2,27
45:13 49:18
49:24 52:7
53:5,16 57:24
58:8 59:18
70:15,27 71:1
71:16 72:13
72:13 73:25
74:8 81:1,8
85:22 86:24
87:14,24
97:18 102:12
106:11 107:2
107:14,14
116:24 120:5
120:5,28
121:2 125:11
125:18
watch 82:15
watched 82:20
water 84:25
wavelength
35:20
way 8:21 13:27
22:9 27:8,12
38:10 46:16
46:19,21,21
46:22,24,25
46:26 53:16
63:14,16
83:15 85:18
88:2 101:13
102:26 103:25
109:3,22
ways 60:18
we'll 59:23
73:17 126:8,9
we're 43:12
54:6
we've 72:26
78:9
week 16:1
24:23 25:13
25:17 28:20
29:24 35:14
35:15,17 36:8
36:9 37:7,20
38:24,28 39:2
42:17,19,25
54:8 58:15
122:6
weekly 42:14
weeks 13:18,19
24:19 72:27
98:25,25
100:3
well 6:11 11:6
17:20 21:4
30:1 33:8,19
36:7 43:11
45:18 47:12
54:5 67:5
71:17 72:25
74:22,24
84:26 86:4
91:19 93:1
96:26 97:3
101:10 103:24
108:11 110:2
111:3 114:8
120:13 122:22
went 13:25
19:21 20:22
20:27 22:24
22:25 31:2
32:3 36:19
38:24 42:21
51:6 54:24
56:10 59:5
66:5 74:6
76:25 98:27
102:23 104:19
105:8 106:1,4
117:10 123:12
were 8:27 9:3
9:25 11:5,6
12:25 15:20
16:7,9,11,23
17:5,11,16
18:15,18
19:18,19,23
20:12,19 21:3
21:5,26 22:12
22:26 23:23
23:24 24:2
25:3,16,28
26:5,16 27:17
27:19,26
28:22,22 29:3
29:6,7,17,20
30:14,24 31:6
31:28 32:4,5
33:18,22 34:6
34:19,26 35:9
36:2,4 38:4,9
38:9,13,16,23
39:23,28 40:6
40:9,10,23,23
40:24,24,27
41:15,16,19
41:22 42:12
42:24,24 43:2
44:20 45:10
45:11,13
46:10,11
47:28 48:6,10
48:16,17,17
48:28 49:1,1
49:13,15,22
49:25 50:7,19
50:26 51:1,6
51:17,19,21
51:21 53:2,12
53:18 54:14
54:21,27 55:1
55:6,7,17,18
55:21 56:2,5,5
56:6,11,20,24
56:24,25
57:25 58:11
60:15 62:2,25
64:7,23 66:6,7
66:12,15,24
67:18 68:2,3,9
68:23 70:13
70:18,19
71:17,18,19
72:4,5,9,18,19
72:21,22 73:6
73:8,12 74:9
74:23,25,27
75:8,9,13,28
76:9,18 77:11
77:13,16 78:6
78:10 79:9,16
79:21,22,22
80:2,26 82:5
82:15 83:2,3
83:19,27,28
84:4,5,8 85:1
85:14,23,26
86:1,13,14,27
87:2,9,9 88:2
88:11,12,13
90:4 93:1,2,26
94:7,12,25
97:3 98:8
99:20,26
100:11,26
102:22 105:20
105:28 106:7
106:9,22
110:23,24,28
111:12,16
112:6,12
113:9,13,21
113:21 115:13
115:14 116:6
117:7,8,16,20
118:12 120:13
120:20 121:6
122:11 124:10
124:17,28
125:13,14
126:26 127:1
weren't 26:11
49:6 51:19
70:9
West 3:5 17:2
while 19:21
38:16 53:17
60:2 61:19
78:26 80:2
white 46:28
47:25
whole 21:14
23:19
wife 91:2 114:6
115:10
WILLIAMSON
2:18
willing 25:11
willpower
119:20 121:22
121:23
wind 91:21
Winston 45:2
83:23 84:19
Winstons 110:2
wished 120:25
witness 4:2
96:11 126:10
126:15,16
127:18 128:15
woman 42:3,8
42:10 58:1
114:1,10,12
114:17,23
115:6 116:23
woman's 64:17
64:18,20,22
64:28 65:6,24
113:22 116:8
women 42:2
58:7 84:19
91:24 95:18
95:19 99:3
113:4 114:27
115:23
women's 65:25
113:5 117:18
wondered
120:18
wood 38:19
woods 37:8
word 7:9 61:7
67:19 84:10
words 84:5,16
85:5 88:17
109:15,19
work 76:26
worms 82:9
123:21
worried 50:21
worth 88:16
wouldn't 61:12
65:5 91:2
100:28 103:10
103:20 109:27
120:25 121:19
wrapped 46:25
WRIGHT
127:9
writing 11:5
written 6:9
10:25 88:12
88:15,20 89:7
125:13
wrong 54:1,2
69:12,13
116:5

X

X 4:1,7

Y

yeah 7:18 9:16
10:7 17:4,10
22:22 25:15
25:18,20,26
26:2,6 28:14
29:8 31:2,15
31:17,20
32:12,16
33:10,20
34:14 35:27
36:26 37:12
38:21 39:25
48:14 50:4,26
51:12 55:25
57:4,12 58:20
59:22 62:13
64:25 68:20
70:12,20 77:5
77:20 80:23
80:24 81:6,14
81:18 85:3
86:12,24
87:12 88:4
89:23 90:1
91:22 93:14
104:1,24,27
106:1,25
108:16 111:13
112:21 114:16
116:26 117:10
118:16 119:3
120:18 121:20
123:20
year 8:13 10:27
16:13 35:28
36:13,14,15
36:24 39:7,8,9
39:24 40:3
42:11,20,23
43:4,13 44:26
45:17 46:12
49:15 50:23
51:9 54:6,20
58:17 60:4
73:20 74:3,4
75:13 80:20
96:27,28
98:10,11,21
99:19,21,23
100:2,21
104:19 118:15
120:21 122:6
122:15,16
124:7
years 8:23 9:26
14:18,19
15:17 38:23
39:23 62:2,24
78:27 90:4
112:4,5
113:21
yellow 86:19,23
86:27
Yep 8:1
yes-or-no 6:4
young 26:26
younger 18:8
31:28 82:15
112:7
youth 37:4,20
38:8

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